



CODE OF ORDINANCES

CITY OF SOUTH PADRE ISLAND CODE OF ORDINANCE

TABLE OF CONTENTS

	Chapter 1	1
GENERAL PROVISIONS		1
How Code designated		1
Prior Ordinances referenced		1
Definitions		1
Catchlines of Sections		2
	Chapter 2	3
ADMINISTRATION		3
City organization		3
Designation as City.		3
Corporate seal.		3
Official paper		3
Election of Mayor and Council Member		3
Mayor's and Council Member's salary		4
No further compensation;		4
Ordinances--Read and approved		4
Publication required		4
Notice to City of personal injury or property claims.		4
claim:Refusal of		5
Location for service of notices		5
No waiver		5
Sworn notice required		5
Police Department-Established		5
City Council to set compensation.		6
Arrest without warrant or upon complaint		6
Duty of other persons to aid		6
Municipal Judge--Appointment		6
Duties		6
Tenure		6
Qualification		6
Temporary judge		7
Removal		7
Clerk of Municipal Court.		7
Municipal Court Technology Fund		7
Municipal Court Security Fund		7
City Manager--Hiring		8
Salary		8
Bond required		8
Duties		8
Legal defense for City officials provided		8
Indemnity of City officials		8
Fiscal year.		9
Personal identification certificates		9
Standard of Care for Emergency Action.		9
RECORDS MANAGEMENT		10
	Chapter 3	21
ANIMALS AND FOWL		21
Livestock		21
Fowl		21
Horseback riding regulated.		21
DOGS		21
Dogs at large		21

Owners to vaccinate dogs	22
Veterinarian to furnish and file certificate	22
Veterinarian to furnish tag	22
Rabies--Notice by examining veterinarian	22
Rabies--Owner quarantine of dog	22
Extermination by Health Officer	23
Impoundment by Health Officer.	23
Entry on private property by Health Officer	23
Health officer to register dog impounded	23
Time for redemption	24
Redemption by owner	24
Fees for impoundment and care.	24
Redemption of unvaccinated dog	24
Failure to redeem dog-	24
Forfeit to person redeeming.	24
CATS AT LARGE	25
Cats at large.	25
Chapter 4	29
BUILDINGS AND CONSTRUCTION	29
Building permit required	29
holders responsible for damage to streets	29
Payment of fees required	29
licensed masters required.	29
Stop-work order for violation.	29
Adoption of Standard Codes	29
Master Flood Hazard Prevention Ordinance adopted	30
Permits to conform	30
Elevators	30
Exceptions to Codes Authorized	30
Fire limits established	30
Appointment of Building Inspector.	30
Adoption of Building Code for windstorm resistant construction	31
Most stringent requirement adopted	31
Liability insurance required	31
Minimum insurance limits	31
SCHEDULE OF PERMIT FEES	31
Standard Housing Code, Board of Adjustments and Appeals	32
Standard Unsafe Building Abatement Code	32
Taxes--Payment prior to issuance of permit.	33
Bond required upon granting of permit	33
Building Inspector authorized Building Inspector to issue citations	34
STRUCTURAL REQUIREMENTS	34
Post tension construction requirements	34
Type VI construction prohibited for public buildings.	34
Type VI construction prohibited for certain living units	34
Conversion of Type VI structure to public or multi-family use	34
submission of plan	34
Approval of Building Inspector required	34
Standards for construction of one (1) and two (2) family dwellings	35
Supersede conflicting Code provisions	38
Cityhouses	38
ELECTRIC	38
Electrical Standards	38
Non-metallic conduit required.	39
Highest standards to take precedent.	40
BOARD OF ADJUSTMENTS AND APPEALS	40

Appointment.	40
Term of Office	40
Quorum.	40
Records.	40
Procedure.	40
Commercial Property Maintenance	42
Chapter 5	48
CIVIL DEFENSE AND DISASTER RELIEF	48
Emergency Management Director, subordinate officers	48
Specific duties	48
Subordinate officers	49
development of emergency management plan.	49
Emergency Management Council-authority of Mayor	49
Emergency management organization of City,	49
officers, functions and duties.	49
Sirens and warning devices unlawful.	50
Orders pursuant to this Chapter to override existing City ordinances.	50
Chapter not to conflict with state and federal regulations.	50
Non-liability of City, agents, representatives, etc.	50
Expenditure of funds-prior authorization.	50
Willful obstruction or impersonation unlawful	50
Oath required.	51
Chapter 6	52
ELECTIONS	52
Applicability of state election laws	52
performance of election duties by officers	52
proclamation and notice	52
Election of Mayor and Council Member	52
Staggered two-year terms	52
Chapter 7	53
EMPLOYEE RETIREMENT AND BENEFITS	53
PERSONNEL POLICIES	53
Participation in Texas Municipal Retirement System.	53
Rate of deposits to TMRS.	53
Prior service credit.	53
City contribution to annuity reserve.	53
City remittance and reports to TMRS.	53
Plan provisions for TMRS.	53
Participation in TMRS Supplemental Benefits Fund.	54
Participation in Supplemental Benefits Fund	54
as condition of employment.	54
City remittance to Supplemental Benefits Fund.	54
Participation in Supplemental Death Benefits Fund.	54
Personnel Policies Manual adopted	55
Hiring, dismissal of employees by City Manager.	55
Chapter 8	56
FIRE PROTECTION AND PREVENTION	56
Arson reward offered.	56
Reward standing offer	56
paid from General Fund.	56
Fireworks-Sale prohibited.	56
Fireworks-discharge prohibited.	56
Fireworks-permit for display	56
Trash or refuse--burning prohibited.	56
Campfires	56
Speed limits Specific limits established	56

Barbecue pits excepted	56
Supervision required.	56
Not used for trash, etc.	56
FIRE PROTECTION SIGNAL SYSTEMS	57
Thermal signal systems	57
Inspection Fire Protection System	57
False alarms	57
reports required	57
failure to take corrective measures unlawful	57
civil suit authorized.	57
Tampering with alarm system unlawful.	58
False alarms unlawful	58
Resetting of fire alarm system unlawful.	58
Fire alarm requirement--Deadline	58
FIRE DEPARTMENT	58
Creation of Fire Department and filling of offices	58
Fire Chief and firemen, hiring.	58
Volunteer Fire Fighter's Force created.	58
Board to determine remuneration.	58
Appointment and requirements	58
Termination.	58
SPECIAL BUILDING PROVISIONS	58
Special Building Provisions	58
restaurants	59
Hotels	59
buildings four or more stories in height	59
Chapter 9	
GARBAGE, TRASH, WEEDS AND OTHER WASTE MATERIAL	61
Garbage--Defined.	61
Trash--Defined.	61
Littering	61
Stagnant water	61
Carrion, etc.	61
Prohibited.	61
Weeds, trash, etc.	62
Accumulation prohibited	62
Notice	63
Notice Non-compliance	63
Notice Method	63
Assessment	64
Statement of expenses	64
Filing.	64
Lien for expenses	64
interest	64
suit for foreclosure	64
Owners and occupants to maintain clean premises.	64
Receptacles	65
Signs	65
garbage container Sanitation maintenance required	66
by authorized agency.	66
Removal of garbage	66
Removal of garbage Franchise required	66
Garbage and trash collection franchise granted	66
Fees for Waste Removal Services.	66
JUNKED VEHICLES	67
Definitions	67

Junked vehicles declared nuisance unlawful.	68
JUNKED VEHICLES Notice to owner	68
Public hearing required.	68
Order for removal	68
Violation unlawful.	68
Owner required to remove vehicle if hearing not requested.	69
JUNKED VEHICLES Exceptions	69
Administration of Article	69
by City employees or agents	69
Authority of police to remove vehicle notice to Texas Highway Department	69
Sale or JUNKED VEHICLES scrapping	70
Proceeds of sale--Disposal.	70
Delegation of police authority	70
Texas Abandoned Motor Vehicle Act-Adopted.	70
Entry on private property to examine vehicles	70
Chapter 10	71
Food Services	72
Required Training.	73
Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of these rules.	78
food service establishment Submission of Plans	79
food service establishment Pre-operations Inspection	79
Procedure When Infection is Suspected	79
Penalties.	79
Injunctions	79
REGULATION OF SMOKING	80
Other Applicable Laws	82
REGULATION OF SMOKING	83
Definitions	83
Prohibition of Smoking	83
Posting of Signs	83
Penalty for Violations	84
Other Applicable Laws	84
Chapter 11	85
OCCUPATIONAL LICENSES, ALCOHOLIC BEVERAGES, MISCELLANEOUS PERMITS	85
TAXICABS	85
Definitions	85
Taxicab license required	85
Taxicabs, limousines, touring vehicles or shuttles operating from points outside the City must be licensed to pick up passengers within City limits.	85
Current holders of taxi license must conform to requirements	85
Identification	85
advertising prohibited.	85
Taxicabs to be not greater than five years of age.	86
Current annual state vehicle inspection	86
subject to periodic inspection by City Health Officer	86
Operators of taxicabs, limousines, touring vehicles, or shuttles prior to adoption of this Chapter must comply with requirements hereof upon renewal of license.	86
Operators	86
Use of most direct route.	86
Passenger's exclusive right	86

Stands on streets and sidewalks prohibited.	86
Soliciting business.	86
TAXICAB LICENSES; PROCEDURES AND REQUIREMENTS.	87
Written application to Chief of Police	87
Applicants must submit to police department investigation.	87
must submit certificate of intent to insure following requirements	87
Contents of Application.	87
accompanied by written permission for parking and taxi stands	88
Police Chief approval of locations.	88
License Fee	88
Multiple vehicles on one license when initially issued;	88
addition of other vehicles requires new license.	88
Replacement	88
License not transferable; vehicle transfer fee	88
TAXICABS License renewal	88
Revocation for violation of law or failure to comply	88
driver's license requirements apply to licensee.	88
PROCEDURE SUBSEQUENT TO FILING OF APPLICATION.	88
Current Feasibility Standard.	88
Application may be approved by City Secretary	88
notify City Council of granting or denial of license	89
Appeal from denial of application	89
notice hearing;	89
if no appeal, a decision of Secretary final.	89
Public hearing to be set on application if feasibility standard fulfilled.	89
Applicant responsible for posting of notice of hearing	89
notice to current license holders.	89
Time of publication of notice	89
Public Hearing on necessity and convenience to be conducted by City Council	89
Matters to be considered at hearing on public necessity and convenience.	89
Criteria for determination of public convenience.	90
Burden of proof upon applicant	90
license holders and interested citizens may protest	90
City Council to make final decision	90
RATE ZONES, LOG BOOK REQUIREMENTS, PROCEDURE FOR CHANGE.	90
Rate Zones.	90
Rates subject to appeal	90
Rate schedules to be permanently affixed in taxicab	90
Cab logbook required, subject to City audit.	90
INSURANCE REQUIREMENTS.	91
Liability insurance required	91
Certificate of insurance premium	91
City Secretary to be notified upon cancellation or lapse of insurance;	91
vehicles not to operate without insurance.	91
DRIVER REQUIREMENTS, LICENSING.	91
Class C or appropriate driver's license.	91
Application	91
procedure.	91
to be issued for a one year period.	92
Renewal	92
Denial	92
NON-MOTORIZED VEHICLES FOR HIRE	92
Non-motorized vehicles to be licensed; requirements.	92
Horse-Drawn Carriages	93
ALCOHOLIC BEVERAGES, MISCELLANEOUS PERMITS	93
Fee for alcoholic beverage	93

Business hours for alcoholic beverage permit holders.	93
Official forms--City Secretary to certify and execute.	93
Sandblasting prohibited without permit.	94
Building Department to issue sandblasting permit.	94
CUSTOM GARMENT FABRICATION	94
Definitions	94
..custom garment fabrication business Application for License	94
Expiration and Renewal.	95
Regulations.	95
Suspension or Revocation	96
Recordkeeping and Access.	96
Chapter 12	109
OFFENSES AND MISCELLANEOUS PROVISIONS	109
Firearms--Discharge prohibited, exceptions.	109
Noises--Loud, disturbing, etc. prohibited.	109
Camping	112
To camp	112
Prohibited in absence of sewer facilities.	113
camp Prohibited upon street	113
Glass .Glass prohibited on beach.	113
Watering of lawns and shrubbery--Regulated.	113
Notice.	113
Airplanes—aircraft Prohibitions on landing and operating.	113
Prohibiting Placement of Material on	114
Special Expense for Issuance and Service of Arrest Warrant.	114
When Case is Dismissed because of actions by Defendant	114
Prohibition of Parking on Private Property	114
Slow Speed/Minimum Wake Required of all Watercrafts	115
Riding on portion of vehicle not intended for passengers	115
Boarding or alighting from moving vehicles	115
Loitering	115
Nitrous Oxide Offenses	117
Possession or consumption of alcoholic beverages in the Central Business District	118
REGULATION OF LIGHTING	122
Chapter 13	126
PEDDLERS, SOLICITORS, ITINERANT VENDORS,	126
DISPLAYS OF MERCHANDISE OUTDOORS AND ON BEACH	126
Outdoor displays	126
Retail sales--sewer facilities required.	126
Beaches--Peddlers, commercial activity prohibited thereon.	126
Right-of-Ways---Commercial Activity Prohibited Thereon.	126
Vacant Property---vacant property Prohibition of Business and Commercial Activity Thereon	126
Vehicles --- vehicle Prohibition of Business Activity Thereon	126
Special Event Permits	126
Regulation Shade Devices & Chairs on Public Beach	131
Chapter 14	133
PROPERTY	133
PERSONAL PROPERTY	133
Unclaimed or abandoned personal property to be sold.	133
Notice to owners	133
Publication of notice if owner or address of owner unknown.	133
Public auction of property and notice thereof.	133
Conduct of public auction.	133
No warranty as to goods sold; receipt to purchaser	134
Real personal property owner's right	134
REAL PROPERTY	134

Erosion of property declared hazard.	134
Restoration of eroded property by owner required.	134
Owner not required to restore if title disputed.	134
Notice to owner of erosion;	135
unlawful not to commence correction within 20 days.	135
Service of notice upon owner; publication.	135
Wreckage and debris to be removed.	135
Chapter 15	136
SIGNS	136
Purpose	136
Purpose	136
Definitions.	136
Permits, Renewals, Expiration and Transfers	142
Administrative Procedures	143
Voiding of Sign Permit	144
Certain Signs Prohibited	144
Sign Types Permitted	145
Sign Standard	146
Table 15-Sign Number, Area, Height	148
Signs Exempt from Regulation	155
Signs exempt from permit requirements	156
Wind Pressure Load Requirements for Signs	156
Fees, Maintenance of and Abandoned Signs	156
Special Provisions for Recognized Events and City Holidays	157
Appeals	158
Bond required	158
Penalty Provisions	159
Chapter 16	160
STREETS AND RIGHT-OF -WAYS	160
Permit--Required for work within right-of-ways.	160
Fill materials--Prior approval before removed.	160
Prior offer to City required.	160
Excavation—excavation Application for permit	160
Additional information required	160
Bond for restoration of right-of-way.	161
right-of-way Restoration	161
Permit--Issuance and fees.	161
right-of-way:Appeal from denial.	161
Construction .construction permit	161
Non-rubber wheeled vehicles	162
Stop-work order authorized.	162
Cul-de-sacs--Unauthorized improvements prohibited.	162
Requirements for paving, landscaping.	162
Bulkhead required	162
specifications set by City.	162
cul-de-sac Plans required	162
Bulkhead quality comparable to adjoining property.	163
Finished grade requirements.	163
Chapter 17	166
TAXATION	166
Tax Code adopted, sales tax adopted.	166
Assessment and collection--City Council to appoint officers, entities.	166
Rates and levies	166
Tax rates, discounts, etc. to comply with State law	166
Exemptions from ad valorem taxes.	166
Gas and electricity--tax retained.	166

HOTEL-MOTEL OCCUPANCY TAX	166
Definitions	166
Rate of tax rates and levies established	167
tax Collection of	167
Room Occupancy Tax - Reports/Payment	167
Discount for timely payment.	Error!
Bookmark not defined.	
Room Occupancy Tax - Procedures.	167
tax Room Occupancy Tax - Criminal Penalty	168
Civil Penalties.	168
Revenues--Use.	168
Tax Imposed in Extraterritorial Jurisdiction.	168
Chapter 18	170
TRAFFIC	170
State traffic regulations	170
Authority of officials and officers	170
Enforcement by Police Department;	170
Making and enforcing regulations, permanent and temporary.	170
beaches Vehicles prohibited on	170
Speed limits	170
Reasonable and prudent speed required.	170
Reduced speed required for special hazards.	170
City Council may alter limits, violations unlawful.	171
Speed limits Specific limits established	171
Traffic control devices	171
Drivers required to obey	171
Emergency vehicles excepted	171
Applicable to all governmental vehicles.	172
Unauthorized devices	172
Defacing, etc. defacing prohibited	173
Public Works Department responsible	173
Report required by Public Works official.	173
Proof in prosecution for violation.	173
Parking	173
Padre Boulevard	176
Golf Carts	177
Chapter 19	179
UTILITIES	179
Electric power franchise granted.	179
rates Electric power	179
Telephone facilities provided.	179
Cable communications franchise.	179
Underground Utilities.	179
Chapter 20	180
ZONING	180
Short title.	180
Zoning, ZONING adoption of statute	180
Definitions	180
ZONING Districts	186
District map.	186
District- .Single family dwelling	187
Use regulations	187
Height regulations	188
Area regulations	188
District "B\"	189
District "B" - Multi-family dwelling	189

apartment, motel, hotel, condominium, Cityhouse district.	189
Use Regulations	189
Height regulations	189
Area regulations	189
ZONING District	192
District "C" - Business district	192
Area regulations	194
ZONING District	196
D-1" RESORT AREA DISTRICT	197
District "E" - Low Density Residential	202
Use Regulations	202
Area Regulations	203
ZONING Special area regulations	204
Recreational Vehicles/Mobile Equipment	205
Regulations for Recreational Vehicles	205
Outdoor displays	208
Certain non-conforming uses	209
Setback area –ZONING setback: Special regulations and uses	210
ZONING parking Uses affecting	218
Certificate of occupancy and compliance.	219
Board of adjustment; Appeals.	219
Penalty for violation to apply to owner, architect, builder, etc.	223
Changes and amendments.	223
Variances.	224
Designation of Public Parks, Beaches, etc.	224
Chapter 21	241
Penalty Provisions	241
Penalty Not to Exceed Five Hundred Dollars	241
Penalty Not to Exceed Two Thousand Dollars	241
Chapter 22	242
DUNE PROTECTION	242
Chapter 23	259
ARTICLE 1	259
SHORT TITLE, PURPOSE, AND LEGAL PROVISIONS	259
SUBDIVISION REGULATIONS	260
Authority	260
Purpose	260
Jurisdiction	260
Definitions	260
Policies And Special Provisions	262
Variances	263
Preliminary Conference	263
Preliminary Plat And Accompanying Data	264
<u>Fast Track Process</u>	267
Engineering Plan Requirements	267
Record Plat	267
Design Standards	271
Standards And Specifications For The Installation Of Improvements	273
PERFORMANCE GUARANTEE	279
Authority Of The Public Works Director	281
Conflict With Other Ordinances	282
Saving Provision	282
RESERVED	282
Penalty	282
Chapter 24	283
Sexually oriented businesses	283

Chapter 1

GENERAL PROVISIONS

Sec.1-1 How Code designated and cited.

The Ordinances embraced in this and the following Chapters and Sections shall constitute and be designated the "Code of Ordinances City of South Padre Island, Texas", and may be so cited. State law reference--Authority of city to adopt Code of Ordinances, Chapter 53, Local Government Code and Section 2.16(b) of Home Rule Charter for South Padre Island which was adopted in November 2009.

Sec.1-2 Prior Ordinances referenced.

Many Sections within this Code may contain a reference, in parenthesis after the last sentence, to a previous Ordinance which was the source of the contents of the Section.

Sec.1-3 Definitions and rules of construction.

In the construction of this Code, and of all Ordinances and Resolutions passed by the City Council, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council and after Jan 1, 2010 the City Council per Home Rule Charter.

Board. Whenever the term "Board" or "the Board" is used, it shall mean the City Council of the City of South Padre Island, Texas unless designated otherwise within a particular Chapter and post Jan 1, 2010 the City Council per Home Rule Charter.

Building Inspector. The term "Building Inspector" shall include the official Building Inspectors of the City as well as the City Manager or any other person vested with the authority of Building Inspector by the City Council (and post Jan 1, 2010 the City Council per Home Rule Charter).

City Manager. The City Manager is the Chief Administrative Officer of the City. See Home Rule Charter For Appointment, Powers And Duties.

Code. The term "Code" or "this Code" shall mean the Code of Ordinances, City of South Padre Island, Texas, as designated in Section 1-1.

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

County, the county. The term "county" or "the county" shall mean Cameron County, Texas.

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

Month. The word "month" shall mean a calendar month.

Newspaper. The word "newspaper" or "the newspaper", shall mean the official newspaper as designated in Chapter 2, Sec. 2-4 of the Code.

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

Officers, board, etc. Whenever reference is made to any officer, board or commission, the same shall be construed as if followed by the words "of the City of South Padre Island". Reference to any specific officer shall also be deemed to include his duly authorized deputies, assistants and representatives.

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

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, receivers, trustees, and bodies politic, and corporate as well as to individuals.

State. The words "the state" shall be construed to mean the State of Texas.

Street. The term "street" shall include any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway in the City dedicated or devoted to public use.

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

City. The term "the City" or "City" or "Town" shall mean the City of South Padre Island in the County of Cameron and State of Texas.

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. The word "year" shall mean a calendar year.

Sec.1-4 Catchlines of Sections.

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

Chapter 2

ARTICLE I ADMINISTRATION

Sec.2-1 City organization, powers and duties--Generally, adoption of statute.

Editors Note: In November 2009 the voters adopted a Home Rule Charter which changed the form of government and the name from Town to City of South Padre Island.

Sec.2-2 Designation as City.

The municipality of South Padre Island shall be known as the City of South Padre Island, Texas.

Sec.2-3 Corporate seal.

(A) The corporate seal of the City shall be a circular disc with raised edge and a five-pointed star in the center; the words "City of South Padre Island" shall surround the seal.

(B) The City Secretary shall be the custodian of the corporate seal and when it is affixed to any instrument shall be the evidence of the authenticity of such instrument..

Sec.2-4 Official paper for publication of notice.

The Port Isabel-South Padre Press is hereby designated as the official paper for publication of legal notices required to be published under the laws of the State.

State law references--Authority to designate, § 52.004, Local Government Code.

Sec.2-5 Election of Mayor and Council Member.

A Mayor and five (5) Council Members will be elected at large.

Sec. 2-5.1 Election of Council Members by the Place System.[See Article VI of Home Rule Charter]

Council Members of the City of South Padre Island shall be elected at large by the Place System and any candidate for the office of Council Member shall file his/her application for a specific place on the City Council. Such places on the City Council shall be designated as follows:

- Place No. 1
- Place No. 2
- Place No. 3
- Place No. 4
- Place No. 5

Any candidate for the office of Council Member shall file an application for a specific place on the governing body, such as "Place No. 1." The ballot for election under the Place System must show each office of Council Member as a separate office designated by Place Number.

Sec.2-6 Mayor's and Council Member's salary. [See Section 2.04 & 9.05(c) Home Rule Charter]

The salary for the office of mayor is hereby fixed at One Dollar (\$1.00) per calendar year that he shall have acted as Mayor, which one dollar shall be paid from the General Fund of the City. The compensation to be paid each Council member elected at a general election or appointed by the governing body is hereby fixed at One Dollar (\$1.00) per year that he shall have acted as Council Member, which one dollar shall be paid from the General Fund of the City and which compensation shall begin to accrue with the first regular meeting of the governing body immediately following an election. (Ord. No. 39- 3-3-76)

Sec.2-7 Same--No further compensation; expenses.

The Mayor and Council Member shall receive no other form of compensation from the City, other than that provided in Section 2-6 herein, except that the City may reimburse the Council Member and /or Mayor for expenses incurred by them in the performance of their duties, which reimbursement will be subject to the approval of the majority of the City Council.(Ord. No. 39, 3-3-76)

Sec.2-8 Ordinances--Read and approved at two meetings. [See Article II Home Rule Charter]

All Ordinances to be enacted by the City Council of the City must be read and approved by a majority of the City Council at two different meetings. The reading and approval of the Ordinances at two different meetings may be at either a regular and/or special meeting or combination of both. (Ord. No. 36, 12-3-75)

Sec.2-9 Same--Publication required.

Once an Ordinance has been read and approved by a majority of the City Council at two different meetings, then the same shall become effective immediately or, if the same be penal, when published in compliance with § 52.011 of the Local Government Code.(Ord.No.36, 12-3-75)

Sec.2-10 Notice to City of personal injury or property claims.

The City 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 or injury, shall within six (6) months from the date the damage or injury was received give notice in writing to the Mayor and City Council of the following facts:

- (A) 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;
- (B) The nature of the damage or injury sustained;

- (C) The apparent extent of the damage or injury sustained;
 - (D) A specific and detailed statement of how and under what circumstances the damage or injury occurred;
 - (E) The amount for which each claimant will settle;
 - (F) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented;
 - (G) 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, in any, to whose care the injured person is committed;
 - (H) 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.
- (Ord. No. 106, 4-20-83; Ord. No. 151, 3-6-91)

Sec.2-11 Refusal of claim by Board prior to suit.

No suit of any nature whatsoever shall be instituted or maintained against the City, unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the City Council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the Board refused. (Ord. No. 106, 4-20-83)

Sec.2-12 Location for service of notices.

All notices required by Section 2-10 shall be effectuated by serving them upon the City Secretary at the following location:
 4601 Padre Boulevard
 South Padre Island, Texas 78597
 and all such notices shall be effective only when actually received in the office of the person named above. (Ord. No. 106, 4-20-83)

Sec.2-13 No waiver of provisions by City officers.

Neither the Mayor, a City Council member, nor any other officer or employee of the City shall have the authority to waive any of the provisions of Sections 2-10 through 2-14. (Ord. No. 106, 4-20-83)

Sec.2-14 Sworn notice required.

The written notice required by Section 2-10 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 Board as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (Ord. No. 106, 4-20-83)

Sec.2-15 Police Department-Established.

A Police Department, in and for the City, is established, which Police Department shall consist of a Chief of Police and up to thirty (30) subordinate police officers. It shall be the duty

of said Police Department to enforce the general laws of the State of Texas and the Ordinances of the City. (Ord. No. 27C, 8-21-79; 08-10, 10-1-08)

Sec.2-16 Same—City Council to set compensation.

The City Manager shall appoint and hire the Chief of Police and all subordinate policemen, and the Board shall set the compensation that they shall receive for the performance of their duties. The City Manager is further authorized to remove or discharge any police officer pursuant to the Personnel Policies Manual adopted by the City. (Ord. No. 27, 3-5-75)

Sec.2-17 Same--Arrest without warrant or upon complaint.

Any policeman or peace officer, or any other person may, without a warrant, arrest an offender when there is an offense against the laws of the State or the Code of the City, committed in his presence or within his view; or any peace officer or policeman may arrest any person when a complaint is filed accusing that person of committing an offense against the laws of the State or against the Code of the City. (Ord. No. 27, 3-5-75)

Sec.2-18 Same--Duty of other persons to aid.

It shall be unlawful for any person being called upon by the Chief of Police or any other peace officer or policeman to refuse or fail to aid such officer in any manner in which he might be lawfully called on to aid or assist in the execution of a duty incumbent upon such officer. (Ord. No. 27, 3-5-75)

Sec.2-19 Municipal Judge--Appointment.

There may be appointed by the City Council, a Judge of the Municipal Court of the City, which judge shall be appointed by resolution of the Board. (Ord. No. 55, 4-14-78)

Sec.2-20 Same--Duties.

The Judge of the Municipal Court shall perform the duties as prescribed by the laws of the State. (Ord. No. 55, 4-14-78)

Sec.2-21 Same--Tenure.

Any judge appointed as Judge of the Municipal Court of the City pursuant to Section 2-19 shall serve from his day of appointment to April 30 of the first even-numbered year following his appointment, or until his successor is duly appointed and qualified. (Ord. No. 55-4-14-78)

Sec.2-22 Same--Qualification.

Any person appointed as Judge of the Municipal Court shall take an oath of office as may be required of all other public officials and upon taking of said oath, he shall be the duly qualified Judge of the Municipal Court for the City. If no person is appointed to serve as Judge, then the Mayor shall serve as Judge. (Ord. No. 55, 4-14-78)

Sec.2-23 Same--Temporary judge.

In the event the Judge for the Municipal Court of the City has been appointed and he is temporarily absent from the corporate limits of the City, or ill or otherwise unable to perform his duties, then, and in that event, the Board may by resolution appoint a Presiding Judge in lieu of the regularly appointed Judge, who shall serve as Judge until the duly appointed Judge can resume his duties. (Ord. No. 55, 4-14-78)

Sec.2-24 Same--Removal.

The Judge of the Municipal Court may be removed as Judge any time by resolution of the Board, which resolution will rescind the previous resolution appointing said individual as Judge. (Ord. No. 55, 4-14-78)

Sec.2-25 Clerk of Municipal Court.

The City Secretary shall serve as ex-officio Clerk of the Municipal Court pursuant to § 29.010 of the Government Code and said Secretary is further authorized to appoint a Deputy if the same may be deemed advisable. (Ord. no. 25, 8-7-74)

Sec. 2-25.1. Municipal Court Technology Fund.

- (A) A Technology Fund for the Municipal Court of the City of South Padre Island, Texas is hereby created.
- (B) All defendants convicted of a misdemeanor offense in the Municipal Court shall pay a technology fee of Four Dollars (\$4.00) as a cost of court.
- (C) A person is considered convicted of a misdemeanor under this Ordinance if: (1) a sentence is imposed on the person; (2) the person is placed on community supervision, including deferred adjudication community supervision; or (3) the Court defers final disposition of the person's case.
- (D) The Municipal Court Clerk shall collect these costs and pay the funds to the Finance Director of the City of South Padre Island and said costs shall be deposited in a fund known as the City of South Padre Island Municipal Court Technology Fund.
- (E) The fund may only be used to finance the purchase of technological enhancements for the City of South Padre Island Municipal Court as now or hereafter provided by Article 102.0172 of the Texas Code of Criminal Procedure and the fund shall be administered under the direction of the City Council of the City of South Padre Island.
- (F) The technology fee as provided for herein may only be charged as costs of court for offenses committed on or after September 1, 1999.
- (G) Repealed by Ordinance 07-08

Sec. 2-25.2. Municipal Court Security Fund.

- (A) A Municipal Court Building Security Fund for the Municipal Court of the City of South Padre Island, Texas is hereby created.
- (B) All defendants convicted of a misdemeanor offense in the Municipal Court shall pay a security fee of Three Dollars (\$3.00) as a cost of court.

- (C) A person is considered convicted of a misdemeanor under this Ordinance if: (1) a sentence is imposed on that person; (2) the person receives community supervision, including deferred adjudication; or (3) the court defers final disposition of the person's case.
- (D) The Municipal Court Clerk shall collect these costs and pay the funds to the Finance Director of the City of South Padre Island, Texas and said costs shall be deposited in a fund known as the City of South Padre Island Municipal Court Building Security Fund.
- (E) The fund may only be used to finance items used for the purpose of providing security services for the building housing the Municipal Court as now or hereafter provided by Article 102.017 of the Texas Code of Criminal Procedure.
- (F) The security fee as provided for herein may only be charged as costs of court for offenses committed on or after September 1, 1999.
- (G) The fund shall be administered under the direction of the City Council of the City of South Padre Island, Texas.

Sec.2-26 City Manager--Hiring.

A City Manager shall be hired by the City Council. (Ord. no. 57, 5-17-78)

Sec.2-27 Same--Salary.

The salary of the City Manager shall be set by the Board plus an allowance for expenses as may be determined from time to time by the Board. (Ord. No. 57, 5-17-78)

Sec.2-28 Same--Bond required.

The City Manager shall give bond in the penal sum of \$10,000 for the performance of his duties. (Ord. No. 57, 5-17-78)

Sec.2-29 Same--Duties. [See Home Rule Charter]

The City Manager shall perform such duties and exercise such powers as are provided by Article 1164a-5 V.A.C.S. (Ord No. 57, 5-17-78)

Sec.2-30 Legal defense for City officials provided.

The City will provide, at its expense, legal defense for any lawsuit filed against any official or official City board when said lawsuit is grounded or based upon the discharge of their official duties in behalf of the City. (Ord No. 33, 6-18-75)

Sec.2-31 Indemnity of City officials provided, exceptions.

The City will indemnify, save and hold harmless any City official or official board when any judgment is rendered against the same, when said judgment was based upon said official or board discharging their official duties in behalf of the City, except no defense or indemnity will be provided for any charges or allegations of an official or board for misconduct, bad faith, or other improper or illegal act; and, in such cases, said individual shall have to afford his own legal defense to said allegations. (Ord No. 33, 6-18-75)

Sec.2-32 Fiscal year.

The fiscal year for the City shall be from October 1 to September 30.

Sec.2-33 Personal identification certificates, issuance by Police Department.

- (A) Any person eighteen years of age or above may apply for a personal identification certificate from the Police Department of the City of South Padre Island. Upon completion by such person of an application form to be promulgated by the Police Department, the Department may issue a personal identification certificate to such person.
- (B) The personal identification certificates issued by the Police Department shall contain the full name, date of birth, street address, employer (if applicable) of the applicant, and an expiration date for the certificate, such date to be determined by the Police Department. Each certificate shall be separately numbered and records of certificates issued and the applications therefor shall be kept by the Police Department.
- (C) The Police Department shall levy and collect a fee of Five Dollars (\$5.00) from each applicant for preparation of and issuance of each certificate. (Ord. 125, 2-4-87)

Sec.2-34. Standard of Care for Emergency Action.

Every officer, agent, or employee of the City and every officer, agent, or employee of an authorized provider of emergency services, including, but not limited to, every unit of government or subdivision thereof, while responding to emergency calls or reacting to emergency situations, regardless of whether any declaration of emergency has been declared or proclaimed by a unit of government or subdivision thereof, is hereby authorized to act or not to act in such a manner to effectively deal with the emergency. An action or inaction is "effective" if it in any way contributes or can reasonably be thought to contribute to preserving any lives or property. This action shall prevail over every other ordinance of the City and, to the extent to which the City has the authority to so authorize, over any other law establishing a standard of care in conflict with this section. Neither the City nor the employee, agent, or officer thereof, or other unit of government or subdivision thereof or its employees, agents, or officers shall be liable for the failure to use ordinary care in such emergency. It is the intent of the City Council, by passing this ordinance, to assure effective action in emergency situations by those entrusted with the responsibility of saving lives and property by protecting such governmental units from liability, and their employees, agents, and officers from non-intentional tort liability to the fullest extent permitted by statutory and constitutional law. This section shall be liberally construed to carry out the intent of the City Council. (Ord. No. 150, 3-6-91)

Sec. 2-35. Strategic Planning Sessions held in City.

If the City Council holds a strategic planning session it shall be held in the corporate limits of the City.

Sec. 2-36 City Departments

(A) There is hereby established for the City of South Padre Island a Shoreline Management Department.

(B) The Departments of the City are: City Administration, Finance, Fire, Police, Convention and Visitor's Bureau, Transit, Administrative Services, Environmental Health, Information Technology, Development, Public Works, Shoreline Management

Sec.2-37 to 2-49. Reserved for future amendments.

ARTICLE II RECORDS MANAGEMENT

Sec. 2-50. DEFINITION OF RECORDS OF THE CITY OF SOUTH PADRE ISLAND.

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the City of South Padre Island 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 City of South Padre Island and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

Sec. 2-51. RECORDS DECLARED PUBLIC PROPERTY.

All records as defined in Sec. 2-50 above are hereby declared to be the property of the City of South Padre Island. No official or employee of the City of South Padre Island 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. 2-52. POLICY.

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

Sec. 2-53. RECORDS MANAGEMENT OFFICER.

The City Secretary, and the successive holders of said office, shall serve as Records Management Officer for the City of South Padre Island. 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 taking up the office, as applicable.

Sec. 2-54. RECORDS CONTROL SCHEDULES.

Appropriate records control schedules issued by the Texas State Library and Archives Commission shall be automatically adopted by the records management officer for use in City of South Padre Island, as provided by law. Any destruction of records of the City of South Padre Island will be in accordance with these schedules and the Local Government Records Act.

Sec. 2-55 to Sec. 2-65 are repealed and Reserved for future expansion.”

ARTICLE III

Board of Ethics

Sec. 2-70 Board of Ethics.

A Board of Ethics is hereby established to be composed of five (5) members all of whom shall reside in the City of South Padre Island.

Sec. 2-70.1 Member Positions.

Each member of the Board of Ethics shall be appointed by the City Council and occupy a position on the Board. Such positions shall be numbered 1 through 5.

Sec. 2-70.2 Member Terms.

The Board members shall be appointed for two (2) year staggered terms. Positions 1, 3 and 5 shall expire on February 1, 2012 and thereafter those positions shall be filled with successive two-year terms and positions 2 and 4 shall expire on February 1, 2011 with successive two-year terms. Any vacancies for a position shall be filled for the unexpired term of that position. A member shall hold office until his/her successor has been appointed by the City Council.

Sec. 2-70.3 Chairman of Board.

The Board shall elect a Chairman and the Vice-Chairman to a one-year term. The Vice-Chairman shall act as Chairman in the absence of the Chairman.

Sec. 2-70.4 Quorum.

Three or more members of the Board shall constitute a quorum but no action of the Board shall be of any force or effect unless its adopted by a favorable vote of four (4) or more members.

Sec. 2-70.5 Code of Ethics.

The Board of Ethics shall establish a Code of Ethics and administer and enforce the conflict of interest and Finance Disclosure State Laws.

Sec. 2-70.6 Prohibition.

No member of the Board may hold elective or appointed office under the City or any other government or hold any political party office.

Sec. 2-70.7 Authority.

City Council authorizes the Board to issue binding opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and

documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel with City Council approval.

Sec. 2-70.8 Training.

The Board will provide annual training and education of City Officials and employees, including candidates for public office, regarding the ethics code established by the Board.

Sec. 2-71 to 2-74 Reserved for future expansion.

ARTICLE IV

Sec. 2-75 Fee Schedule for City Services

A fee is hereby established for the City services described as follows:

Administrative Services

Copies and/or printouts, up to 8-1/2"x14"	\$.10/page after first 10 pages
Personnel (Labor)	\$15/hour after the 1st hour
Diskettes/CD's	\$1/each
Envelopes (Small)	\$1/each
Envelopes (Large)	\$2/each
Postage	Actual cost
Oversize paper copy (11'x17", Green/Blue bar)	\$.50/page after first 10 pages
Mylar (depending on thickness)	\$.85 to \$1.35/linear foot
Blueprint/Blue line paper (all widths)	\$1 linear foot
VHS video cassette	\$2.50
Audio cassette	\$1.00
DVD	\$5.00
Municipal Court Online Payment Fee	\$3.00
Public Facility Use Fee	\$50.00 /hour

Planning Department

City zoning maps	\$150.00
GIS service	\$75.- per hour
Zoning verification letter	\$25.00
Variance	\$250.00
Master Plan	\$250.00
Planned Development District	\$1,000.00
Specific Use	\$250.00
Zoning Case postponement	\$250.00
Rezoning - residential	\$1,000.00
Rezoning - commercial	\$1,000.00
Subdivision fees-preliminary plat	\$750.00
Subdivision fees-final plat	\$750.00
Subdivision fees preliminary-re-plat	\$500.00

Subdivision fees final re-plat	\$500.00
Subdivision fees - preliminary/final re-plat	\$500.00

Police Department

Taxi permit/company	\$100.00
Temporary taxi permit	\$100.00
Taxi drivers permits	\$25.00
Wrecker service permit application	\$100.00
Fingerprints	\$25.00
Golf Cart permits	\$50.00
Golf Cart permit renewal	\$25.00
Security Officer	\$30.00/hour

Fire Department

Fire Alarms Systems Permit	\$50.00
Private Fire Hydrants	\$50.00
Condominiums	\$100.00
Hotels / Motels	\$100.00
Apartments	\$100.00
Permit fee Fire Sprinklers & Standpipe Systems	\$50.00
Inspection Fire Alarms systems (existing systems)	\$50.00
Inspection Fire Sprinklers & Standpipe system	\$50.00
New Fire Hydrant	\$100.00
Inspect tie- in Fire Sprinkler & Standpipe Systems	\$100.00
Review of Building Fire Protection Plans	10 per floor minimum charge of \$50.00
Storage Tanks Permit\Inspection	\$75.00
Re-Inspection	\$50.00
Business Buildings Annual Fire Safety Inspection	\$50.00
Burning Permits	\$50.00
Initial Fire Safety Inspection	\$100.00
Propane tank inspection	\$100.00
Temporary Tank Permit\Inspection	\$100.00
Temporary Structure (tents, portable buildings)	\$30.00
Fire System modification	\$100.00
Fire Hydrant flow test	\$25.00
Fire Hydrant Contractor use Permit	\$200.00
Certificate of Occupancy Inspection	\$50.00
Re-Inspection for Certificate of Occupancy	\$30.00
Lab\Clinics Inspection	\$100.00
Restaurant Fire Extinguishing Hood System	\$50.00
Fire System Hydro test	\$50.00
Fire Works Display Permit	\$200.00
Fire Reports	\$10.00

Fire False Alarms 2nd Call Thereafter	\$200.00
Review Evacuation Route & Fire Drills	\$50.00
Advanced Life Support (resident)	\$650.00
Advanced Life Support (non-resident)	\$850.00
Advanced Life Support 2 (resident)	\$650.00
Advanced Life Support 2 (non-resident)	\$1,000.00
Basic Life Support (resident)	\$650.00
Basic Life Support (non-resident)	\$700.00
Oxygen	\$50.00
Definitive Care* (Treatment with IV or meds, no transport)	\$100.00
Mileage	\$12.00

Environmental Health Services

Health inspections (annual food service)	\$100.00
Re- inspections for health permits	\$50.00
Temporary health inspections:	\$10.00 daily
Annual permit for temporary vendors	\$100.00
Reprint of Health permit	\$10.00
Special Events cooking food stand	\$10.00
Umbrella permit-new application	\$100.00
Umbrella permit-yearly renewal	\$100.00
Garment inspections	\$100.00
Mowing administrative cost	\$100.00 per invoice
Heimlich poster fee	\$5 for first one and \$2 each additional
Plan review fee	\$100.00
Animal trap deposit	\$20.00
Natural Habitat Application fee	\$50.00

Building Department

Building permits	\$7 per \$1000 value, minimum \$25.00
Electrical	\$50.00
Plumbing	\$50.00
Mechanical/AC	\$50.00
Demolition	\$100.00
Development	\$50.00
Fence	\$50.00
House moving	\$200.00
Lawn irrigation	\$50.00
Painting	\$25.00
Swimming pools	\$7 per \$1000
Right-of- way	\$50.00
Sign	\$50.00
Special Event	\$250.00
Temporary structure	\$100.00
Temporary parking lot	\$100.00

Re-inspection	\$25.00
City Maps	\$25.00
Special Events Permit (Temp Parking)	\$100.00
Special Events Permit (Not Spring Break)	\$250.00
Sandblasting	\$200.00
Shade Device permit	\$50.00

Beach Maintenance

Beach & dune permits that require state/council approval	\$300.00
Beach & Dune permits in-house	\$180.00
Vehicle beach use permits	\$25.00
Special Events Permit (Beach)	\$250.00
Special Events Permit (Beach Weddings)	\$25.00

Convention Center

Lobby Rental	\$400/day
Exhibit Hall	\$2,500 /day
Theater	\$650/day
Rooms 101-104 (separately)	\$250/day
Rooms 201&203 (separately)	\$250/day
Room 202	\$400/day
Sun Terrace	\$400/day
Entire Facility	\$5,000/day
Copies	\$.15 black and white, \$.25 color
Copies	\$.50 oversized
10X10 Booth with skirted table, 2 chairs	\$65/day
Electricity 0-20 AMPS	Advance \$45, Floor Order \$55 /day
Flat Fee Electrical-dependent on no. of booths, days of use	\$100-600
Table rental	Advance \$10, Floor Order \$15/day
Molded Chair	Advance \$5, Floor Order \$10/day
Upholstered Chair	Advance \$8, Floor Order \$12/day
Skirting	Advance \$15, Floor Order \$20/day
Miscellaneous Extension Cords	\$25/day
Telephone (per line)	Advance \$50, Floor Order \$60
Hanging banners less than 10 feet in length	\$25 plus forklift/operator fee
Same as above but using high lift to hang from ceiling	\$50 plus high lift/operator fee
Banners longer than 10 feet	\$10/foot /banner
Fork Lift with Operator	\$40/hour
High Lift with Operator	\$60/hour
Reusable Bags-advance notice required	\$1.00 each
36x24 poster w/board-advance notice required	\$15.00 and up each

Sec. 2-75.1 Exemption of Non-profit Corporations: Valid non-profit corporations shall be exempt from paying fees for services rendered by the City of South Padre Island under the following departments and divisions: Planning, Fire, Environmental Health and Building.

To qualify for this fee exemption, the corporation must provide valid documentation to the City Secretary that it is designated as a 501(c)(3) by the Internal Revenue Service, that the corporation is in good standing, and that the organization operates in a building located on South Padre Island.

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Chapter 3 ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec.3-1 Livestock prohibited.

The keeping of any livestock within the City is declared a nuisance and is prohibited and unlawful.

Sec. 3-1.1 Definition of Livestock

- (A) Ungulates, such as but not limited to, cattle, sheep, swine, goats, etc.
- (B) Ratites, or poultry commonly raised for human consumption;
- (C) A horse, pony, mule, donkey, or hinny;
- (D) Native or nonnative hoofstock raised under agriculture practices; or
- (E) Native or nonnative fowl commonly raised under agricultural practices.

Sec.3-2 Fowl prohibited.

It shall be unlawful for any person to keep any chickens, turkeys, geese, ducks peacocks, emus, or ostriches, within the City limits.

Sec.3-3 Horseback riding regulated.

It is unlawful for any person to ride a horse, mule, donkey or any other animal through or upon the beaches or other public right-of-ways within the City limits. (Ord No. 4A, 7-21-76)

ARTICLE II. DOGS

Sec.3-4 Dogs at large.

All dogs located within the City shall at all times be fenced, housed, leashed, tethered or in some other manner physically restrained so that they may not any time run at large within the limits of the City. Any dog found at large within the City may be impounded by any police officer or by a duly designated Animal Control Officer and processed as provided in this Article. (Ord No. 31A, 6-4-75)

Sec. 3-4.1 Dog Bite(s).

- (A) An owner or person who has care, custody or control of an animal commits an offense if an animal bites a human being.

- (B) In this section the term bite shall mean a bite or scratch that breaks the skin.

Sec.3-5 Owners to vaccinate dogs against rabies.

It shall be the duty of every person who owns a dog or keeps a dog in or on his premise or premises under his control within the City, to have said dog properly vaccinated against hydrophobia, commonly called "rabies", by a competent veterinarian duly licensed to practice such profession in the State by the time the animal is sixteen weeks of age and at regular intervals thereafter as prescribed by Texas Board of Health. All rabies vaccinations shall meet the requirements as set in Texas Health and Safety Code Chapter 826, Subchapter C, and Texas Administrative Code Chapter 169, Subchapter A. (Ord No. 31, 4-16-75)

Sec.3-6 Veterinarian to furnish and file certificate.

Every veterinarian who shall vaccinate a dog against rabies shall furnish the owner of such dog with a certificate thereof, containing the name of such owner and the age, color, sex and general description of such dog, sufficient to identify such dog. (No. 31, 4-16-75)

Sec.3-7 Veterinarian to furnish tag.

Along with the certificate of vaccination for a dog, the veterinarian vaccinating such dog shall furnish the owner thereof with a tag for such dog, containing lettering indicating the proper vaccination and inoculation of said dog, and the year during which said vaccination was administered, which said tag shall be attached to the collar of said dog, which will be worn at all times while outside. (Ord No. 31, 4-16-75)

Sec.3-8 Rabies--Notice by examining veterinarian.

Every veterinarian or other person who is called to examine or professionally attend any rabid dog within this City shall, within twenty-four (24) hours thereafter, report to the duly designated Local Rabies Control Authority the following facts:

- (A) A statement of the location of such diseased animal;
 - (B) The name and address of the owner thereof;
 - (C) All known humans or animals suspected of having been exposed to the rabid dog.
- (Ord No. 31, 4-16-75)

Sec. 3-8.1 Local Rabies Control Authority -- appointment.

The City Council will appoint a Local Rabies Control Authority to act pursuant to this Chapter as provided herein and to further handle the impounding and disposal of animals as provided for in this Article. The City of South Padre Island Environmental Health Director or designee shall be designated as the Local Rabies Control Authority for the City of South Padre Island pursuant to section 826.017 of the Texas Health & Safety Code. (Ord 10-19)

Sec.3-9 Rabies--Owner quarantine of animal.

It shall be the duty of every person who owns an animal, or keeps an animal in or on his premises, or on premises under his control, within the City, when such animal shows symptoms of hydrophobia, or has been exposed to such disease, or has injured some person or animal, upon such person being notified by the duly designated Animal Control Officer of such fact or facts, to at once cause said animal to be confined and secured in an approved quarantine facility as described in the Texas Health and Safety Code, for a period of not less than ten (10) days (240 continuous hours starting at the time of the bite), and until it can be reasonably determined by such Local Rabies Control Authority, or veterinarian, that such animal is not afflicted with such disease. (Ord No. 31, 4-16-75)

Sec.3-10 Rabies-- Local Rabies Control Authority quarantine of animal.

In the event no owner, keeper or person in control of an animal showing such symptoms of hydrophobia, or which has been exposed thereto, which has injured some person or animal, can be found by the duly designated Local Rabies Control Authority, it shall be the duty of the Local Rabies Control Authority, or designee, to confine said animal in a secure place for such period of time and until it is determined that such animal is not afflicted with such disease. (Ord 10-19)

Sec.3-11 Euthanasia by Police Officer or Animal Control Officer.

It is hereby made the duty of the Chief of Police and his full time salaried officers, as well as the Local Rabies Control Authority or his designee, to capture and euthanize any and all dogs at large when said dog or dogs are, or appear to be, affected with hydrophobia or any other infectious, contagious or dangerous disease or diseases. (Ord No. 31, 4-16-75)

Sec.3-12 Impoundment by Animal Control Officer.

It shall be the duty of the City Police Officer or Animal Control Officer to seize and impound, subject to the provisions of this Article, all dogs found within the City limits in violation of any provision of this Article, whether such dog shall be in the immediate presence of the owner or custodian or otherwise. (Ord No. 31, 4-16-75)

Sec.3-12.1 Designated Impoundment Facility.

All animals are to be impounded at the contracted impoundment facility. The impoundment facility must comply with Chapter 823 of the Texas Health and Safety Code, and accept all animals for impoundment, quarantine, and safe holding in a manner not to impair the safety and well-being of the animal.

Sec.3-13 Entry on private property by Police Officer or Animal Control Officer.

The City Police Officer or Animal Control Officer is hereby authorized to enter upon any unfenced lot, tract or parcel of land, or private property to the fullest extent permitted by law, except dwellings located on the private property, for the purpose of seizing and impounding any dog found in violation of this Article or other applicable laws. (Ord No. 31, 4-16-75)

Sec.3-14 Police Officer or Animal Control Officer to register dog impounded.

The duly designated City Police Officer or Animal Control Officer, upon impounding or receiving any dog under the provisions of this article, shall make a complete registry of such dog, entering the breed, color and sex of such dog and whether such dog has been vaccinated, and the time and place of taking such dog into custody. (Ord No. 31, 4-16-75)

Sec.3-15 Time for redemption.

- (A) Should any dog be impounded pursuant to the provisions of this Article then such dog shall not be subject to destruction as set forth by the terms of this Article, but shall be delivered to a licensed facility for impoundment until the expiration of seven (7) days.
- (B) Any such dog not redeemed within such time shall become property of the licensed impoundment facility. (Ord No. 31, 4-16-75)

Sec.3-16 Redemption by owner.

The owner of any dog which has been impounded under the provisions of this Article shall have the right to redeem the same upon the payment of any and all fees which may be due and payable for the impoundment of such dog; provided, however, the payment of such impoundment fees shall not bar the imposition of any fine which may be imposed for the violation of this article. (Ord No. 31, 4-16-75)

Sec.3-17 Fees for impoundment and care.

A fee may be charged for the impoundment of any dog under the provisions of this Article by the duly contracted licensed facility for each day, or fraction thereof, of impoundment for the feeding and care of such dog. (Ord No. 31, 4-16-75)

Sec.3-18 Redemption of unvaccinated dog.

The owner of any impounded dog which has not been vaccinated as required by this Article, upon satisfactory proof of ownership, may redeem his dog after the proper vaccination has been administered by a veterinarian. (Ord No. 31, 4-16-75)

Sec.3-19 Failure to redeem dog--Forfeit to person redeeming.

If the owner of any dog impounded under this Article shall fail to redeem his dog within the time allowed for redemption, any other person may, adopt such dog from the impoundment facility and thereafter be the lawful owner of such dog. (Ord No. 31, 4-16-75)

Sec.3-20 Monies deposited in general fund.

All monies received and collected under the provisions of this Article shall be deposited in the general fund of the City. (Ord No. 31, 4-16-75)

Sec.3-21 Health Officer--appointment.

See Section 3-8.1

Sec.3-22 Persons authorized for Local Rabies Control Authority duties.

The Environmental Health Director or his designee is hereby authorized to carry out the duties of the Local Rabies Control Authority as provided in this Chapter, and to handle the impounding and disposal of animals. Any Police Officer, Policeman or Animal Control Officer is hereby authorized to use tranquilizer guns on animals in order to facilitate handling, impounding and disposal, as provided for in this Chapter. (Ord 10-19)

Sec. 3-22.1 Interference with Animal Control Officer.

No person may interfere with an Animal Control Officer while an officer is engaged in the performance of the officer's duties.

**ARTICLE III.
CATS AT LARGE**

Sec.3-23 Cats at large.

All cats located within the City shall at all times be fenced, housed, leashed, tethered or in some other manner physically restrained so that they may not at any time run at large within the limits of the City. Any cat found at large within the City may be impounded by any police officer or by a duly designated Animal Control Officer and processed as provided in Article II regarding dogs.

Sec. 3-24 Cat Bite(s).

- (C) An owner or person who has care, custody or control of an animal commits an offense if an animal bites a human being.
- (D) In this section the term bite shall mean a bite or scratch that breaks the skin.

**ARTICLE IV
REGULATION OF OTHER ANIMALS**

Sec.3-25. Possession, exhibition, sale, breeding, barter or release of any poisonous or venomous biting or injecting species of arachnid or reptile, including snakes, within the territorial limits of the City of South Padre Island.

- (A) Any person possessing, for any purpose, any biting or injecting species described herein, must register with and obtain a permit from the City within ten (10) days of the enactment of this ordinance or before possession thereof.
- (B) Any species described herein must be kept in a secure facility and secured enclosure appropriate for the particular species at all times and said

secured enclosure must identify the particular species contained therein. All secured enclosures must comply with and meet or exceed professional industry standards.

- (C) All facilities and enclosures must be available for inspection and approval by the City Health Inspector, Fire Marshall, Police Department, and other City Officials at all times.
- (D) A complete inventory of the total number of all species on site must be kept at all times and provided to the City every thirty (30) days. The City may designate its own representative to conduct an independent inventory of all species at any time it deems appropriate.
- (E) An evacuation plan for hurricanes, fire, flood, or any other emergency situation that may arise must be provided to and approved by the City's Emergency Management Official for the evacuation of said species at the time of obtaining a permit.
- (F) The entire inventory of the permittee must be evacuated from the City within eight (8) hours of the issuance of a hurricane warning for the area by the National Weather Service.
- (G) A protective barrier meeting or exceeding professional industry standards must be between all species and the public at all times.
- (H) A current unexpired and adequate supply of anti-venom for each species must be maintained on site with an inventory of same provided to the City on a monthly basis.
- (I) The permittee must obtain and maintain at all times an insurance policy, designating the City of South Padre Island as a co-insured, of not less than One Million Dollars (\$1,000,000.00) per incident, a copy of which shall be filed with the City.
- (J) At no times shall any species be taken from its enclosure and exhibited to any person(s) other than for maintenance and care.
- (K) The City reserves the right to restrict and otherwise limit the number and types of species on the permittees premises.
- (L) Violations of this ordinance include, but are not limited to: (i) failure to obtain a permit, (ii) failure to obtain and maintain adequate insurance, (iii) failure to submit and obtain approval of evacuation plan, (iv) failure to provide monthly inventory of species, (v) failure to provide monthly inventory of anti-venom, or (vi) failure to timely evacuate entire inventory from island per paragraph (F).
- (M) Enforcement of this Ordinance shall be through the Police Department or Environmental Health Services Department or any other legally authorized official of the City of South Padre Island.

- (N) Definitions:
Poisonous- a substance which by its direct action can injury or kill life.
Venomous- poisonous, contain venom, having a poison gland(s).
Secured facility- a building or a separate portion from which no species kept may escape without the assistance of a human.
Enclosure- a confined area from which the species contained cannot escape without the assistance of a human.
Protective barrier- a barrier that cannot be breached by the species enclosed.
Anti-venom- an antidote to snakebite, an antitoxin.
- (O) No allegations or evidence of a culpable mental state is necessary to prove up an offense committed in violation of this ordinance.
- (P) The permittee must designate and provide to the City the telephone number of two (2) persons available on a twenty-four (24) hour emergency basis.
- (Q) A written safety procedure for the care, maintenance, and handling of the species subject to this ordinance must be submitted to the City for approval prior to obtaining a permit. Said Safety procedure must designate a qualified second person to be on site whenever any species is removed from its enclosure.
- (R) A written protocol for bites must be submitted to the City for approval prior to obtaining a permit.

ARTICLE V MISCELLANEOUS REGULATIONS OF ANIMALS

Sec.3-30. Cleaning up after pets.

Any person owning, keeping, possessing or harboring any dog or cat shall promptly remove and dispose of all feces left by the dog or cat on any public property and on any private property not owned by such person or lawfully occupied by such person. [Ord. 06-05, May 2006]

Keeping Barking Dogs and Crying Cats

Sec. 3-31. HARBORING.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

Sec. 3-32. COMPLAINING OF BARKING DOGS OR CRYING CATS.

(A) Whenever any person shall complain to a police officer or animal control officer that a dog which habitually barks, howls or yelps or a cat which habitually cries or howls is being kept by any person in the City, a police officer or animal control officer shall notify the

owner of said dog or cat that a complaint has been received and that the person should take whatever steps necessary to alleviate the howling, yelping or crying.

(B) If the warning given to the person alleged to be keeping a dog or cat as set forth in (a) above is ineffective, then a complaint of at least two citizens not from the same family or structure may be presented to the police officer or animal control officer, alleging that a dog which habitually barks, howls or yelps, or a cat which habitually cries or howls is being kept by any person within the City. The police officer or animal control officer shall inform the owner of such dog or cats that said complaint has been received and shall cite the owner of the dog or cat for the violation alleged in said complaint. [Ord 11-02, Feb 2011]

Chapter 4

BUILDINGS AND CONSTRUCTION

ARTICLE I. GENERAL

Sec.4-1 Building permit required, holders responsible for damage to streets.

There shall be no construction or erection of any type of structure or manufacture of any kind, temporary or permanent, without obtaining a building permit from the City. Permit holders shall be responsible for all damage to City streets (Sec. 16-10 et. seq.) and must comply with all the requirements of Chapter 16 of this Code regarding the right-of-ways of the City.

Sec.4-2 Same--Payment of fees required.

Sec.4-2.1 Every person or entity shall make application for a building permit prior to the commencement of any type or kind of construction of any nature within the City and shall pay the fees established therefor. If there be no specific fee for the type of work or construction, then said applicant shall pay a minimum fee for a building permit as may be established by the City.

Sec.4-2.2. If any person or entity which commences construction or erection of any type of structure or manufacture of any kind before first obtaining a building permit and shall subsequently apply for a building permit and a building permit is thereafter issued, the applicant shall pay twice the normal permit fee or the sum of Two Hundred Dollars (\$200.00), whichever is greater. (Ord 176, 4/5/95)

Sec.4-3 Applications on permits by licensed masters required.

All permits issued for construction shall require an application by a licensed master plumber and licensed master electrician prior to the commencement of plumbing or electrical work, although such application shall not be required for initial issuance of the permit. No additional fee shall be charged by the City in connection with the applications of master plumbers and electricians on building permits. (Ord. No. 17, 12-19-73)

Sec.4-4 Same--Stop-work order for violation.

- (A) Any permit holder that does not comply with any City ordinance, code, law or instruction of the Building Inspector shall be issued a stop-work order by the Building Inspector.
- (B) In the event plumbing or electrical work is commenced prior to application by a master plumber or electrician as required by Sec. 4-3, the Building Inspector may issue a stop-order until such requirement is met.

Sec.4-5 Adoption of Standard Codes.

A) The City adopts the 2012 International Building Code, 2012 International Residential Code without Section P2904 (deleted) and the Exception in Section R302.2 does not apply

City of South Padre Island Code of Ordinances 11/19/15 29

unless the townhouses install a sprinkler system, 2012 International Fire Code, 2012 International Mechanical Code, 2012 International Plumbing Code, 2012 International Fuel Gas Code, 2011 National Electrical Code, 2012 International Energy Code, 1997 Standard Housing Code, and the 1985 Unsafe Building Abatement Code and all other amendments thereto except as modified by the Code of Ordinances. (Ord. No. 14-07)

B). When any of the Standard Codes makes reference to the duties of a certain official named therein, that designated official of the City of South Padre Island who has duties corresponding to those of the named official in said standard code shall be deemed to be the responsible official in so far as enforcing the provisions of said standard codes are concerned.

Sec.4-6 Master Flood Hazard Prevention Ordinance adopted.

The City adopts the Master Flood Hazard Prevention Ordinance as promulgated by the Federal Emergency Management Agency.

Sec.4-7 Same--Permits to conform.

All permits for construction shall require conformance with the Master Flood Hazard Prevention Ordinance.

Sec.4-8 Elevators.

The Standard Building Code Article 506.7(b) is supplemented by the requirement that all elevators in buildings over six (6) stories shall be connected to the on-site standby power plant.

Sec.4-9 Exceptions to Codes Authorized.

The Board of Adjustments is hereby granted authority to grant exceptions to Codes enumerated in Sec. 4-5 hereof upon application by the proper party, and upon a finding by said Board that said exception to this Chapter shall not create a hazard to the health and safety of the citizens of the City.

Sec.4-10 Fire limits established.

The City maintains fire limits (fire zones) as set forth on a map on file in the City offices bearing the signature of the responsible City Official of the City, which map is known as the Fire Zone Map of the City of South Padre Island. Table 600 of the Standard Building Code is modified to the extent that the column called "unprotected" is hereby deleted from the Type IV, V, and VI construction, except Type VI (Wood Frame) construction is allowed for one and two family structures in the fire district if said structure maintains all required residential setbacks (District A) and said structure has non-combustible exterior coverings (brick, stucco-concrete, etc.)(Ord. No. 51, 1-18-78; Ord No. 99-19, 12-1-99)

Sec.4-11 Appointment of Building Inspector.

The Building Inspector or Inspectors shall be such person(s) as may be designated by the City Council. (Ord. No. 2A, 8-7-74)

Sec.4-12 Adoption of Building Code for windstorm resistant construction.

The City adopts the provisions of the Building Code for Windstorm Resistant Construction promulgated by the Texas Windstorm Insurance Association, a true and correct copy of same being on file with the Building Inspector and all construction within the City shall be in strict compliance therewith and with all other codes and ordinances of the City. (Ord. No. 99A, 9-1-82; 99-19, 12-1-99)

Sec.4-13 Most stringent requirement adopted.

In the event any other code or ordinance of the City should impose a more stringent restriction or requirement than that provided by the building code for windstorm resistant construction, then the more stringent requirement shall be complied with. (Ord. No. 99A, 9-1-82)

Sec.4-14 Liability insurance required.

Any person, corporation, or contractor who shall perform any type of work within the public roadways, streets, right-of-ways and easements of the City shall, prior to the issuance of any permit for performing such work within said roadways, streets, right-of-ways and easements, file with the City Secretary, and thereafter keep in full force and effect during the period of construction, a general liability policy in form approved by the Board of Insurance Commissioners, issued by an insurance company duly authorized to transact liability insurance in this State, covering bodily injuries and destruction of property resulting from said work. (Ord. No. 46, 3-2-77)

Sec.4-15 Minimum insurance limits.

The minimum limits for the policy of liability insurance required by Section 4-14 shall be \$100,000.

Sec.4-16 Fees: amendment of Standard Building Code.

Section 107.4 of the adopted Standard Building Code is amended so that it shall read as follows:

Section 107.4 - SCHEDULE OF PERMIT FEES

On all buildings, structures, alterations, or other matters requiring a permit that augments a project, a fee shall be paid as required at the time of filing application, in accordance with the following schedule:

(A) Permit Fees

1. The minimum fee for issuing any permit shall be \$25.00.
2. The fee rate is \$7.00 per \$1,000 valuation.

(B) Building Permit Valuations:

Permit valuation shall include total cost, such as plumbing, electrical, mechanical and other systems, all or any of which require a separate permit. For the purpose

of establishing the valuation of a building, the Building Official may use data published by a recognized authority substantiating current cost of construction and/or the contractor's estimated cost whichever is higher.

- (C) **Moving of a Building or Structure:**
For the moving of any building or structure, the fee shall be \$200.00.
- (D) **Demolition of Building or Structure:**
For the demolition of any building or structure the fee shall be \$100.00.
- (E) **Reinspection Fee:**
In the event the Building Inspector is called upon to inspect an aspect of construction which he has previously inspected and determined insufficient, a reinspection fee shall be assessed the person requesting such reinspection. The amount of such fee shall be determined by the City Manager based upon actual time, overhead, expenses and other factors related to the performance of the reinspection."

Sec. 4-17 Standard Housing Code, Board of Adjustments and Appeals.

The Housing Board of Adjustments and Appeals provided for in the Standard Housing Code shall be the same Board of Adjustments as created and appointed pursuant to the Zoning Code of the City of South Padre Island. Said Board of Adjustments under the Zoning Code shall also have all the powers and duties provided for the Housing Board of Adjustments and Appeals as set forth in the Standard Housing Code.

Sec. 4-18 Standard Unsafe Building Abatement Code and Chapter 214 Local Government Code.

(A) The Board of Adjustments and Appeals provided for in the Standard Unsafe Building Abatement Code shall be the same Board of Adjustments and Appeals appointed pursuant to the Standard Building Code. Said Board of Adjustments and Appeals under the Building Code shall also have all the powers and duties provided for the Board of Adjustments and Appeals as set forth in the Standard Unsafe Building Abatement Code.

(B) Chapter 214 of the Local Government Code.

- (1) In the event any provision of Chapter 214 of the Local Government Code is inconsistent with the Standard Unsafe Building Abatement Code, then the provisions of Chapter 214 of the Local Government Code shall apply.
- (2) Pursuant to Section 214.001(d) of the Local Government Code, the City shall make a diligent effort to discover each mortgagee and lienholder of any property subject to a hearing before the Board pursuant to the Standard Unsafe Building Abatement Code; and before conducting the public hearing, shall give notice to said mortgagee and/or lienholder and afford them an opportunity to comment at the hearing. Additionally, any Order issued to the property owner pursuant to the Standard Unsafe Building Abatement Code shall also provide an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the Order within the time provided for action by the owner.

(C) If the City incurs expenses pursuant to the Standard Unsafe Building Abatement Code including the expenses to secure, repair, remove, or demolish the building or re-locate the occupants, the City shall have a lien against the property for all costs and expenses, including attorney's fees, unless the property is a homestead protected by the Texas Constitution. The lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgagee liens attached to the real property to which the City's lien attaches.

(D) In addition the provisions of the Standard Unsafe Building Abatement Code, the City may also assess a civil penalty against the property owner for failure to repair, remove or demolish the building and that said civil penalty shall be determined by the Board of Adjustments and Appeals and which civil penalty may be in any sum not to exceed Five Hundred Dollars (\$500.00) and said penalty may be assessed for each day that property owner fails to comply with the Orders issued pursuant to the Standard Unsafe Building Abatement Code, and said penalty shall constitute a lien against the property in the same manner as is provided in Section 4-18 (C). Said civil penalty shall accrue interest at the rate of Ten Percent (10%) per year from the date of assessment until paid in full.

(E) Pursuant to Section 214.002 of the Local Government Code, if the City determines that a building, fence, shed, awning or other structure or part of a structure is likely to fall and endanger persons or property, the Building Official may order the owner, the Owner's agent, or occupant of the property to remove or demolish the structure or part of the structure within a specified time; and if the owner fails to remove the same, the City may remove or demolish the structure and assess the expense against the property on which the structure is located. The City shall follow the same procedure for notice, assessment, and recovery of expenses as provided by the Standard Unsafe Building Abatement Code and this Section 4-18.

Sec.4-19 Taxes--Payment prior to issuance of permit.

No permit, including, but not limited to, building permits or permits for excavation, shall be issued unless all taxes due and owing the City on the real estate and improvements whereon such house, building or structure is situated, or on which such demolition or moving is to take place, are fully paid.

Sec.4-20 Bond required upon granting of permit.

- (A) Upon the granting of a building permit, a bond with good and sufficient sureties for a sum of not less than Ten Thousand (\$10,000) Dollars providing for the payment to the City and to any person or persons injured or damaged in person or property of the City, for all injuries and damages caused by, or growing out of, or in any manner connected with such moving, demolition or construction, is required.
- (B) Upon filing of the required bond, the Building Inspector shall determine whether or not the sum of Ten Thousand (\$10,000) Dollars is sufficient to cover the amount of probable damage. In the event that it is determined that a higher amount is necessary to cover such damages, such bond shall be made and increased to such determined amount.

(Ord. No. 51, 1-18-78)

Sec.4-21 Building Inspector authorized to issue citations.

The Building Inspector is hereby authorized to issue citations to any person who in his opinion is violating the terms of this Chapter, and if said violation should continue for ten (10) days after said notice, then the Building Inspector shall file a complaint with the Municipal Court. (Ord. No. 51, 1-18-78)

**ARTICLE II.
STRUCTURAL REQUIREMENTS**

Sec.4-22 Post tension construction requirements.

All concrete construction employing post tension construction techniques shall adhere to a recognized standard for sealing the anchors against rust corrosion and other weather elements. (amended by Ord 00-03, Mar 1, 2000)

Sec.4-23 Type VI construction prohibited for public buildings.

Type VI construction, as the same is defined by the current Standard Building Code adopted by the City, is hereby prohibited for any new construction or conversion when the building or structure is intended to be used by the general public and any existing structure that is classified as a Type VI construction may not be converted for the use by the general public. (Ord. No. 59, 5-17-78)

Sec.4-24 Type VI construction prohibited for certain living units.

Except as provided by Sections 4-25 and 4-26, Type VI construction, as the same is defined by the current Standard Building Code adopted by the City, is hereby prohibited for any structure containing three or more living units or designed to accommodate three or more independent family units to occupy the premises, and conversion of any Type VI structure to three or more family living units is prohibited. (Ord. No. 59, 5-17-78)

Sec.4-25 Conversion of Type VI structure to public or multi-family use.

Any structure of Type VI construction, as the same is defined by the Standard Building Code, that was built, or its building permit issued prior to June 1, 1978, may be converted to a use by the general public or converted to multi-family use, if the owners of said building shall first submit a plan of conversion of said structure to the Building Inspector of the City as herein provided and obtain the approval of the Building Inspector. (Ord. No. 59A, 12-11-78)

Sec.4-26 Same--Approval of Building Inspector required.

If the plan of conversion to be submitted under Sec. 4-25 hereof does not meet with the approval of the Building Inspector, then said building shall not be converted. The Building Inspector may require the applicant to make certain renovations and changes in order to maximize the protection of the general public that may use and occupy the building. If the Building Inspector determines that the building may not be made safe in a reasonable manner, then said conversion may be denied.
(Ord. No. 59A, 12-11-78)

Sec.4-27 Standards for construction.

The hereinafter enumerated standards shall be required in the construction of all buildings, to-wit:

- (A) All structures erected within the corporate limits of the City shall be supported by continuous connection of pilings to base flood level or first living level whichever is greater.

Pilings shall be treated timber or concrete [Note: Windstorm Code has no provision for concrete pilings] as per the following schedule:

Number of Stories Supported by Pilings	Size of Piling	Type of Pilings	Depth of Piling Below Grade	Spacing Pilings
1	Min. 12" Butt Min. 8" Top	Treated Timber	15'	Min 1 piling per 100 sq. ft. Bldg.
1	11 1/2 x 11 1/2	Reinforced Concrete	12' 12'	Min. 1 piling per 100 sq. ft. Bldg.
2	Min. 12" Butt Min. 8" Top	Treated Timber	25'	Min. 1 piling per 100 sq. ft. Bldg.
2	11 1/2 x 11 1/2	Reinforced Concrete	17'	Min. 1 piling per 100 sq. ft. Bldg.
3	Min. 12" Butt Min. 8" Top	Treated Timber	30'	Min. 1 piling per 100 sq. ft. Bldg.
3	11 1/2 x 11 1/2	Reinforced Concrete	20'	Min. 1 piling per 100 sq. ft. Bldg.

- (B) Concrete pilings shall be reinforced concrete with minimum compressive strength of 4,000 P.S.I. twenty-eight day test, five sack mix and minimum four #6 Grade 60 Deformed steel bars throughout full length of piling and extending eighteen inches into the beam. There shall be a continuous tie with concrete pilings to at least the base flood level, or first floor living level. This continuation shall be with concrete columns or concrete block with four #6 rebar and concrete.

- (C) Wood pilings shall be minimum 12" butt diameter minimum 8" top timber pilings. Piling shall be creosoted or C.C.A. treated to resist deterioration, and shall be in accordance with American Wood Preservers Association Standard C-3.

- (D) Pilings must be tied to building structure by suitable connections bolted with not less than two 3/4" galvanized bolts at wood to wood, wood to concrete connections.

Rebar shall be extended from pilings into adjacent member in concrete to concrete connections.

- (E) Concrete grade beams to be a minimum size of 12" x 24" [three (3) story structures must be minimum of 16" x 24"] with four #5 rebar and four corner bars with #3 stirrups at twenty-four inch spacing. A moisture barrier (Visquene) to be used under slab. Slab to be minimum four inches thick with #3 bars at 12" O.C. or 6/6 - 6/6 welded wire fabric or equivalent, continuous. Minimum eight inch reinforced concrete beam or "U" block tie beam to be used to tie masonry structure at floor levels. This beam to have two #5 rebar. Concrete block walls shall have one #5 rebar on each side of all openings and at four foot intervals in horizontal wall, and at all corners. All cells where this occurs, shall be filled with five sack grout. All concrete to be of minimum five (5) sack mix.
- (F) All structures or piling from grade level to base flood level, or first floor living level, whichever is greater, shall be masonry construction which may include brick veneer, or other masonry veneer and stucco.
- (G) All stringers, girder to be minimum of two 2" x 12" material, one on each side of notched piling.
- (H) Sills on concrete to be womanized lumber and anchored with 5/8" galvanized bolts with washers and nuts embedded in concrete minimum 8" at all corners with 4 foot intermediate spacing. Roof plates to be anchored with 5/8" galvanized bolts with washers and nuts embedded in concrete beam or U-block 8" at two foot intervals. [Note: three (3) story structures have greater requirements per windstorm code]
- (I) Wall studs on all exterior walls shall be on 16" centers. Walls over two stories in height require at least 2" x 6" studs, at lower level.
- (J) Roof Construction:
 - (1) All ceiling joists and roof spans shall meet code requirements and each one shall be anchored to wall plates by approved metal anchors.
 - (2) All roof joists to be of 2" x 6" material or heavier or of an engineered truss type construction.
 - (3) Roof decking shall be a minimum of 5/8" plywood CDX grade with exterior glue. Plywood to be nailed 5" apart at the joint, and 7" on the rest of the sheet. Galvanized nails #8 to be used.
 - (4) Wood shingles may be applied to roofs with solid or spaced sheathing. The spaced sheathing shall be spaced not to exceed four inches clear, nor more than the width of the sheathing board. Spaced sheathing shall be not less than one inch by three inches nominal dimensions.
 - (5) Class "A" or "B" minimum roof covering allowed in fire district.
- (K) Supports for roofs or porches, carports, etc. must be of nominal 4" x 4" material or larger, notched and bolted with a tie-down at base.
- (L) All wood exterior walls shall have one hour fire protection, one layer 5/8" fire code "X" gypsum board on the interior, with minimum 5/8" plywood exterior (5/8" texture 1-

11), plywood siding for the purpose of this Article shall be considered to be 3/8" material. Any material other than 5/8" plywood shall have 5/8" plywood sheathing installed.

- (M) All wood party walls shall be one hour protected with minimum one layer 5/8" type "X" fire code gypsum board on each side, to roof and all doors in party walls shall be minimum one hour class "B" doors. Electrical outlets and plumbing outlets shall be staggered. All ceiling assemblies shall be minimum 5/8" gypsum board.
- (N) At least one approved smoke detector shall be installed adjacent to the sleeping area. When actuated, the detector shall provide an alarm suitable to warn occupants within the sleeping area.
- (O) Interior paneling of occupied area shall have a minimum of 200 flame spread. Minimum class "C" paneling.
- (P) Enclosed garage area under dwellings shall have minimum of 5/8" type "X" fire code gypsum installed on all areas or be of masonry construction, and an approved smoke detector installed.
- (Q) Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than thirty-six (36) inches in height. Guardrails shall have intermediate rails or ornamental closures which will not allow passage of an object six (6) inches or more in diameter, and a toe rail located not more than two (2) inches above deck.
- (R) All factory-built fireplaces shall be installed in compliance with the terms of their listing, the manufacturers' instructions, and completely installed and tested before Certificate of Occupancy is issued.
- (S) No dwelling of Type VI construction as defined by the Standard Building Code shall be constructed in the fire district as defined by the Zoning Map of South Padre Island.
- (T) There shall be no occupancy of buildings without an occupancy inspection by the Building Inspector and the issuing of a certificate acknowledging such an inspection.
- (U) The building permit holder shall be responsible for all street damages.
- (V) All applicants for a building permit for structures shall have a property survey, plot plan, building materials list, and a substantial drawing of the structure to enable the Building Inspector to make a plan review. There shall be a minimum waiting period of 48-hours for a plan review. (Ord. No. 78, 4-16-80; 99-19, 12-1-99)
- (W) No structure may use metal, corrugated siding, or use materials that have the appearance of metal or corrugated siding, for the exterior finish of any structure without the express approval of the Development Plan Review Board or the City Council (Corrugated defined as: shaped sheet metal or other material into straight, parallel, regular, and equally curved ridges and hollows). The only exceptions to this requirement are the following:
 - (1) Metal roofs,
 - (2) Garage doors,
 - (3) Accessory storage structures less than one hundred (100) square feet in area or with dimensions less than ten (10') ft. by ten (10') ft., whichever is more restrictive, and
 - (4) Vinyl siding made to look like wood.
- (X) After the issuance of a building permit from the Public Works Department, the applicant/property owner shall be required to submit a signed and sealed elevation

certificate after completion of the structure's foundation. This document will be required prior to commencement of framing. The Building Inspector and/or Building Official will stop construction should information from the elevation certificate be inconsistent with the approved plans, the required FEMA elevation, or City setback regulations.

(Y) Prior to pouring a foundation for a building or structure the applicant/owner shall be required to have a form board survey prepared by a Registered Professional Land Surveyor (RPLS) or Registered Professional Engineer (PE) and must show the building setback lines and the exact location (including distances from property lines) of the foundation form boards. The foundation inspection cannot be performed until a form board survey has been submitted to the Building Department and reviewed by the Building Inspector.

Sec.4-28 Provisions of Sec. 4-27 to Supersede conflicting Code provisions.

The requirements of Section 4-27 above supplement and are in addition to any and all other provisions of this Code and the Codes adopted therein regarding construction and building within the City. If Section 4-27 should be in conflict with any other provision of any other Code, then and in that event, the more restrictive or greater requirement shall supersede and replace any such provision in conflict therewith. (Ord. No. 78, 4-16-80; 99-19, 12-1-99)

Sec.4-29 Townhouses.

Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements or when not more than three stories in height, may be separated by a single wall meeting the requirements of the current version of Standard Building Code that has been adopted by the City.

[Ord No. 99-19, 12-1-99]

ARTICLE III ELECTRIC

Sec.4-30 Electrical Standards.

The National Electrical Code is adopted by the City and all new construction, renovation and modification of structures of any nature within the City shall conform with such code and all other Codes adopted by the City and, in particular, but not by way of limitation, shall meet the following minimum standards of electric service and equipment, to-wit:

- (A) All electrical conductors, other than those supplied, installed, and maintained by the power supplier shall be copper. Copper bearing or copper-clad will not be acceptable.
- (B) The service drop conductors shall have a minimum clearance from finished grade or installations as specified by the National Electric Code or the electric power supplier, whichever is greater. All new services first installed at a customer's

premises after October 23, 1991 shall be underground in accordance with specifications and policies of the utility supplying electric power.

- (C) Service entrance conductors and service disconnect equipment shall be of a capacity to serve the initial load plus 25%, but in no case will they be smaller than #6, 3-wire 120/240 volt single phase. Structures designed to house people will have no smaller than 125 amp., 120/240 volt single phase service entrance and service disconnect equipment.
 - (D) Meter enclosures and service disconnect equipment shall be grounded with a minimum of #6 copper conductor in rigid steel conduit or approved metal guard, extending three (3) feet above and one (1) foot below finished grade.
 - (E) Minimum acceptable grounding electrode shall be 5/8" x 8'0" copper-clad steel rod installed vertically and 6" below finished grade with an acceptable copper or bronze ground rod clamp. Minimum resistance to ground shall not exceed 25 ohms. Rod may be common to both meter enclosure and service disconnect equipment.
 - (F) The electrical contractor shall place his name, address and telephone number in the service disconnect enclosure in a manner that will withstand the environmental conditions.
 - (G) Space for at least 2 spare branch circuit disconnection means shall be provided in the panel in the initial installation. (This does not include single load installations such as pumps, signs, etc.)..
 - (H) All material and equipment installed shall be listed with Underwriters Laboratories Inc., or other approved testing agency.
 - (I) Minimum size conductors, except control circuits, flexible cords, fixture wires and signal circuits shall be #12.
 - (J) Non-metallic sheathed cable shall not be used except for branch circuits. Only type NMC, THW or an approved equal with grounding wire shall be used. Feeders and subfeeders shall be enclosed in conduit or other suitable raceway.
 - (K) Metal conduit shall not be used as a grounding conductor. A separate grounding conductor shall be carried in the same conduit as current carrying conductors.
 - (L) Service entrance cable shall not be used for meter services.
 - (M) Type "USE" cable shall not be direct buried.
 - (N) Concealed knob and tube wiring and concealed "MC" or "AC" cable will not be permitted.
- (Ord. No. 17A, 7-3-74)

Sec.4-31 Non-metallic conduit required.

All commercial structures and structures containing three or more living units are hereby required to install all electrical wiring not atmospherically protected within a non-metallic conduit. (Ord. No. 76A, 4-21-82)

Sec.4-32 Highest standards to take precedent.

Where plans have been submitted to the Building Inspector for the City and said plans and specifications exceed the requirements of the Building Code and this Article, the highest standards shall take precedence, and any change in the plans and specifications shall be delivered to the Building Inspector prior to implementing said change.
(Ord. No. 17A, 4-3-74)

ARTICLE IV

~~BOARD OF ADJUSTMENTS AND APPEALS~~

Article IV was repealed by the enactment of Sec. 20-16 (Ord 10-04, February 2010)

~~Sec.4-33 Appointment.~~

~~—There is hereby established a board to be called the Board of Adjustments and Appeals (hereafter Board) which shall be the City Council of the City. [Ord 09-02]~~

~~Sec.4-34 Term of Office~~

~~—Each member of the Board shall serve for the same period that they serve on the City Council. [Ord 09-02]~~

~~Sec.4-35 Quorum.~~

~~—Four (4) members of the Board shall constitute a quorum. In varying the application of any provision of this Chapter or adopted code or in modifying an order of the Building Official, the concurring votes of four (4) members shall be required. A Board member shall not act in a case in which he has a personal interest. [Ord 09-02]~~

~~Sec.4-36 Records.~~

~~—The Board shall make a detailed record of all its proceedings, which shall set forth the reasons for their decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.~~

~~Sec.4-37 Procedure.~~

- ~~(A) —The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Code.~~
- ~~(B) —The Board shall meet at regular intervals, to be determined by the Chairman.~~
- ~~(C) —Any person requesting a special meeting, other than those regularly scheduled, shall be assessed a fee of \$25.00 per meeting. —*(Ord. No. 51, 1-18-78)~~

Sec.4-38 & Sec.4-39 Reserved for future expansion.

ARTICLE V

Development Standards Review Task Force

Sec. 4-40 Composition.

There is hereby established an advisory Board called the Development Standards Review Task Force (hereafter "Review Board"). The Review Board shall consist of five (5) members of the public appointed by the City Council. [Ord 09-01, Ord 10-32, Ord 13-05]

Sec. 4-41 Term of Office.

Each member of the Review Board shall be appointed for a term of two (2) years. Vacancies shall be filled for an unexpired term in the same manner in which the original appointments are made. Continued absences of a member of the Review Board shall, at the discretion of the City Council, subject any such member to immediate removal from office.

Sec. 4-42 Quorum.

Three (3) members of the Review Board shall constitute a quorum. No Board member shall act in any case in which he or she has a personal interest. [09-01, 13-05]

Sec. 4-43 Procedure.

- A) The Review Board shall establish rules and regulations for its own procedures consistent with the provisions of this Code.
- B) The Review Board shall meet at least once each month at a regularly established time and may hold any such additional meetings that the Chairman may call.

Sec. 4-44 Chairman.

The Review Board shall elect a Chairman, Vice Chairman and such other offices as the Board may determine to be necessary to carry out its duties.

Sec. 4-45 Purpose.

- (A) The purpose of the Development Standards Review Task Force is to develop recommended site plan and exterior design guidelines and ordinances for non-residential uses [all uses other than One (1) or Two (2) family structures] to the City Council, as well as to review all such non-residential building site plans and specifications to insure their compliance with City Ordinances and City Design Guidelines. Review and approval of said site plans and specifications shall take place prior to receipt of a building permit for said structure(s).

- (B) Development Standards Review Task Force will establish goals annually including the following general objectives:
- Make recommendations regarding design guidelines and ordinances for all development, public and private
 - Administer the City's Form-Based Code as adopted by the City Council
 - Develop guidelines for the enhancement of Padre Boulevard
 - Consider and grant variances to established development regulation, when appropriate

Sec. 4-46 Appeal

Any person aggrieved by the decision of the Development Standards Review Task Force may appeal such decision to the City Council. Such appeal to the City Council must be made within ten (10) days from the date the applicant received Notice from the Development Standards Review Task Force. The City Council will hear the appeal within Thirty (30) days of receipt of Notice of the Appeal. The decision of the City Council is final.

Sec. 4-47 Required Review by the Development Standards Review Task Force

Prior to issuance of permits from the Public Works Department, the Development Standards Review Task Force shall first review and approve the following:

- (A) Site plans and elevation drawings for all structures excluding one (1) or two (2) family structures and multifamily structures with two (2) or less stories or with sixteen (16) or less units in one (1) building.
- (B) All structures, excluding one (1) or two (2) family use structures and multifamily structures with two (2) or less stories or with sixteen (16) or less units in one (1) building, desiring exterior color and material use changes (i.e. painting, siding, stucco, etc.) must obtain a permit from the Public Works Department, except color changes that comply with the design guidelines do not require review by the Development Standards Review Task Force. [Ord 08-04, April 2008]

The Development Standards Review Task Force may only deny an application if it does not meet all existing applicable ordinances or the Review Board may refer an applicant to the City Council if their project does not meet existing design guidelines.

Sec. 4-48-4-49 Reserved for future expansion.

ARTICLE VI

Commercial Property Maintenance

General

Sec.4-50 Scope.

The provisions of this Article shall govern the minimum conditions and the responsibilities of persons for maintenance of *Commercial* structures, equipment and exterior property.

Sec.4-51 Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in the *City's Code of Ordinances*. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.

Sec.4-52 Vacant structures and land.

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

Exterior Property Areas**Sec.4-53 Sanitation.**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

Sec.4-54 Grading and drainage.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
Exception: Approved retention areas and reservoirs.

Sec.4-55 Sidewalks and driveways.

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

Sec.4-56 Weeds.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (10"). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Sec.4-57 Rodent harborage.

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec.4-58 Exhaust vents.

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

Sec.4-59 Accessory structures.

All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

Sec.4-60 Motor vehicles.

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purpose.

Sec.4-61 Defacement of property.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

Exterior Structure**Sec.4-62 General.**

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

Sec.4-63 Protective treatment.

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

Sec.4-64 Premises identification.

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches high with minimum stroke width of 0.5 inches.

Sec.4-65 Structural members.

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

Sec.4-66 Foundation walls.

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

Sec.4-67 Exterior walls.

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

Sec.4-68 Roofs and drainage.

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

Sec.4-69 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

Sec.4-70 Overhang extensions.

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

Sec.4-71 Stairways, decks, porches and balconies.

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

Sec.4-72 Handrails and guards.

Every handrail and guard shall be firmly fastened and capable of supporting code imposed loads and shall be maintained in good condition.

Sec.4-73 Windows, skylight and door frames.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

Sec.4-74 Glazing.

All glazing materials shall be maintained free from cracks and holes.

Sec.4-75 Doors.

All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door.

Sec.4-76 Notice to Property Owner for Non-Compliance.

Whenever any condition described in this ordinance is found to exist on any premises with the City, the owner of such premises shall be notified by the City, in writing, to address, correct, remedy or remove the condition within ten (10) days after such notice is issued and it shall be unlawful for any person to fail to comply with such notice.

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Chapter 5

CIVIL DEFENSE AND DISASTER RELIEF

Sec.5-1 Emergency Management Director, subordinate officers, general duties.

There exists the office of Emergency Management Director of the City (hereinafter called "Director"), which shall be held by the Mayor in accordance with the State law.

- (A) An Emergency Management Coordinator, the City Manager, or other designated appointee, serve at the pleasure of the Director;
- (B) The Director shall be responsible for conducting a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in Section 5-2. The Director may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director. (Ord. No. 42A, 6-15-83)

Sec.5-2 Same--Specific duties.

The duties and responsibilities of the Emergency Management Director shall include the following:

- (A) The direction and control of the actual disaster operations of the City Emergency Management organization as well as the training of Emergency Management personnel.
- (B) The determination of all questions of authority and responsibility that may arise within the Emergency Management organization of the City.
- (C) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal, or other Emergency Management organizations.
- (D) The marshaling, after declaration of a disaster as provided for above, of all necessary personnel, equipment or supplies for any department of the City to aid in the carrying out of the provisions of the emergency management plan.
- (E) The issuance of all necessary proclamations as to the existence of a disaster and the immediate operational effectiveness of the City emergency management plan.
- (F) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the City. Such rules and regulations shall be filed in the office of the City Secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.
- (G) The 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, of

an agreement with the county and with other municipalities within the county, for the county-wide coordination of Emergency Management efforts.

(H) The 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.

(I) The authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.

(Ord. No. 42A, 6-15-83)

Sec.5-3 Same--Subordinate officers, development of emergency management plan.

The powers and duties of the Director shall include an on-going survey of actual or potential major 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. As part of his/her responsibility in hazards mitigation, the Director shall supervise the development of an emergency management plan for the City, and shall recommend that plan for adoption by the City Council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency management plan. The powers of the Director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the Board at its next meeting. The duties of the Director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein, as well as a continuing study of the need for amendments and improvements in the emergency management plan.

(Ord. No. 42A, 6-15-83)

Sec.5-4 Emergency Management Council-authority of Mayor.

The Mayor is hereby authorized to join with the County Judge of the county and the mayors of the other cities in the county in the formation of an Emergency Management Council for the county and shall have the authority to cooperate in the preparation of a joint 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. (Ord. No. 42A, 6-15-83)

Sec.5-5 Emergency management organization of City, officers, functions and duties.

The operational Emergency Management organization of the City shall consist of the officers and employees of the City so designated by the Director in the emergency management plan, as well as all 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. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this Chapter. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the State Division of Emergency Management of the State of Texas and of the Federal Government. (Ord. No. 42A, 6-15-83)

Sec.5-6 Sirens and warning devices unlawful.

It shall be unlawful for any unauthorized person to operate a siren or other device so as to simulate a warning signal, or the termination of a warning. (Ord. No. 42A, 6-15-83)

Sec.5-7 Orders pursuant to this Chapter to override existing City ordinances.

At all times when the orders, rules and regulations made and promulgated pursuant to this Chapter shall be in effect, they shall supersede and override all existing codes, ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.
(Ord. No. 42A, 6-15-83)

Sec.5-8 Chapter not to conflict with state and federal regulations.

This Chapter shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule or regulation. (Ord. No. 42A, 6-15-83)

Sec.5-9 Non-liability of City, agents, representatives, etc.

This Chapter is an exercise by the City of its governmental functions for the protection of the public peace, health and safety and neither the City, 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 Chapter shall be liable for any damage sustained to persons as the result of said activity. Any person owing or controlling real estate or other premises who voluntarily and without compensation grants to the City a license or 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 shall, together with his successor 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.
(Ord. No. 42A, 6-15-83)

Sec.5-10 Expenditure of funds-prior authorization.

No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this Chapter 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 Board. (Ord. No. 42A, 6-15-83)

Sec.5-11 Willful obstruction or impersonation unlawful-penalty.

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 the authority contained in this Chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member

of the Emergency Management organization of the City, unless authority to do so has been granted to such person by the proper officials. (Ord. No. 42A, 6-15-83)

Sec.5-12 Oath required.

Each employee or any individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, the laws of the State of Texas and the Code of the City. (Ord. No. 42A, 6-15-83)

Chapter 6

ELECTIONS

Sec.6-1 Applicability of state election laws; performance of election duties by officers; proclamation and notice.

All elections pertaining to municipal affairs shall be governed by the election laws of the state. In all city elections the mayor, city secretary, or the governing body shall do and perform each act in other elections required to be done and performed respectively by the county judge, the county clerk, or the commissioners' court. In all city elections the mayor, or if he fails to do so, the governing body, shall order the election, give notice and appoint election officers to hold the election. In general elections for officers the notice of proclamation shall be issued and posted as required by State Law.

State law reference--See V.A.C.S., Election Code.

Sec.6-2 Election of Mayor and Council Member.

A Mayor and five (5) Council Member will be elected at large.

Sec.6-3 Mayor and Council Member--Staggered three-year terms.

The term of office for the Mayor and five (5) Council Member of the City shall be three (3) years, and said terms of office will be staggered. [Note; 3year term applies only to Mayor and Council Member elected after 2007, prior terms were for 2 years]

Chapter 7

EMPLOYEE RETIREMENT AND BENEFITS, PERSONNEL POLICIES

Sec.7-1 Participation in Texas Municipal Retirement System.

All of the employees of the City shall participate in the Texas Municipal Retirement System (TMRS), as provided in the TMRS Act (Title 8, Government Code), and all of the benefits and obligations of such System are accepted as to such employees. (Ord. No. 60, 6-14-78)

Sec.7-2 Rate of deposits to TMRS.

In accordance with the provisions of the Statute, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the City, are hereby fixed at the rate of seven (7%) percent of the full earnings of each employee.

Sec.7-3 Prior service credit.

Each employee who qualifies for such credit shall be allowed "Prior Service Credit" (as defined in the TMRS Act) at the rate of one hundred (100%) percent of the "Base Prior Service Credit" of such member, calculated in the manner prescribed in said Act. (Ord. No. 60, 6-14-78)

Sec.7-4 City contribution to annuity reserve.

For each month of Current Service rendered to the City by each of its employees who are members of TMRS, the City will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is two hundred (200%) percent of such member's accumulated deposits for such month of employment; and said sum shall be contributed from the City's account in the Municipality Current Service Accumulation Fund. (Ord. No. 60, 6-14-78)

Sec.7-5 City remittance and reports to TMRS.

The City Secretary shall remit to the Board of Trustees of the TMRS, at its office in Austin, Texas, the City's contributions to the System and the amounts which shall be deducted from the compensation or payroll of employees, all as required by said Board under the provisions of the TMRS Act, and the said official is authorized and directed to ascertain and certify officially on behalf of the City, prior service rendered to the said municipality by each of the employees of the City, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the City, under the provisions of the TMRS Act, or in compliance with the rules and regulations of the Board of trustees of TMRS. (Ord. No. 60, 6-14-78)

Sec.7-6 Plan provisions for TMRS.

Pursuant to the TMRS Act, the City adopts the following plan provisions affecting participation of its employees in the Texas Municipal Retirement System:

- (A) Each person who becomes an employee of any participating department of this City and who is not already a member of TMRS, shall become a member of the System as a condition of employment, provided such person is then under sixty (60) years of age;
- (B) Any member, after one (1) year from the effective date of membership, shall be eligible for service retirement who has completed twenty (20) years of creditable service with this City or who has attained the age of sixty (60) years and has completed at least five (5) years of creditable service with participating municipalities which have adopted the plan provisions of this section, or who has become eligible for service retirement under any other applicable provision of the TMRS Act;
- (C) The membership of any member who has completed at least ten (10) years of creditable service with this City and other participating municipalities which have adopted the plan provisions of the TMRS Act, shall not terminate because of absence from service.

State law reference Title 8, Government Code.

Sec.7-7 Participation in TMRS Supplemental Benefits Fund.

The employees of the City shall participate in and be covered by the Supplemental Benefits Fund of the TMRS, as provided by Chapter 312, Acts Regular Session, 56th Legislature; and all the benefits and obligations of participation in said Fund are accepted by the City as to such employees. (Ord. No. 60A, 6-14-78)

Sec.7-8 Participation in Supplemental Benefits Fund as condition of employment.

Each person who becomes an employee of the City shall as a condition of his employment become covered by the Supplemental Benefits Fund of said System. The City may in the future refuse to add new departments or new employees to said Fund, but shall never discontinue as to any members who are covered by the Fund. (Ord. No. 60A, 6-14-78)

Sec.7-9 City remittance to Supplemental Benefits Fund.

The City Secretary shall remit monthly to the Board of Trustees of the TMRS at its office in Austin, Texas, as the City's contributions to the Supplemental Benefits Fund, such percentage of earnings of the above-mentioned employees of said City as may be fixed by the Board of Trustees of the TMRS, provided that the rate of contribution to said Fund shall not exceed one-half of one percentum (1/2%) of the earnings of the employees of said City who are covered under said Fund; and such official shall make for the City such reports as said Board of Trustees may prescribe. (Ord. N. 60A, 6-14-78)

Sec.7-10 Participation in Supplemental Death Benefits Fund.

The City shall participate in the Supplemental Death Benefits Fund of the TMRS, for the purpose of providing in-service death benefits in the amounts and on the terms provided for in

the TMRS Act for each of the City's employees who are members of said System, and for the purpose of providing post-retirement death benefits as provided in said TMRS Act for annuitants whose last covered employment was as an employee of this City. (Ord.. No. 60B, 6-14-78)

Sec.7-11 Personnel Policies Manual adopted.

The City has adopted a Personnel Policies Manual dated March 1997 as the official policy of the City with regard to personnel administration. The official copy of the Manual shall be maintained and available in the office of the City Secretary. The City Council may revise or amend said manual by the enactment of a resolution. (Ord. No. 108, 9-22-83; Ord 97-02, 3/19/97; Ord 97-15, 10/22/97)

Sec.7-12 Hiring, dismissal of employees by City Manager.

Unless otherwise stated in this Code, the hiring and dismissal of all city employees is performed exclusively by the City Manager pursuant to the Personnel Policies Manual.

Chapter 8 FIRE PROTECTION AND PREVENTION

ARTICLE I.

IN GENERAL

Sec.8-1 Arson reward offered.

The City hereby offers a reward of Two Hundred and Fifty Dollars (\$250.00) to anyone who secures and furnishes information necessary to and which results in arrest and conviction of any person who commits the crime of arson within the City limits. (Ord. No. 107, 6-15-83)

Sec.8-2 Reward standing offer, paid from General Fund.

The Section 8-1 reward is a standing offer and shall be paid out of the General Fund of the City. (Ord. No. 107, 6-15-83)

Sec.8-3 Fireworks-Sale prohibited.

The sale of firecrackers, roman candles, skyrockets and other explosive or gunpowder powered devices known as fireworks, is hereby expressly forbidden within the City limits.(Ord. 14)

Sec.8-4 Fireworks-discharge prohibited.

The discharge of firecrackers, roman candles, skyrockets and other explosive or gunpowder powered devices known as fireworks is hereby expressly forbidden within the City limits. (Ord. No. 14, 10-22-73)

Sec.8-5 Fireworks-permit for display.

An exception to Section 8-4 is hereby provided to the extent that a person may obtain a permit for a fireworks display, which permit shall be issued by the City Secretary pursuant to rules and regulations duly established by the City Council to protect the health and safety of the citizens of the City, and any person holding such a permit will not be found guilty of violating Section 8-4. (Ord. No. 14, 10-22-73)

Sec.8-6 Trash or refuse--burning prohibited.

The starting, causing or allowing of the burning of any trash or refuse, or the burning of any materials of any nature are expressly forbidden within the City limits, unless specifically excepted by Section 8-8. (Ord. No. 12, 1-8-73)

Sec.8-7 Open fires on public beach prohibited.

Open fires on the public beach are prohibited which includes a campfire.

Sec. 8-7.1 Open fires and Barbecue pits prohibited In Public Right of Way.

Open fires, barbecue pits and any fuel fired device used to heat or cook are prohibited in the public rights of way of the City.

Sec.8-8 Barbecue pits excepted.

The use of a home barbecue pit shall not be deemed a violation of Section 8-6, and any person is hereby allowed to maintain barbecue pits in the normal and usual manner, and any person is also allowed to construct and maintain fireplaces within their homes or outside their homes if such fireplaces are used as a barbecue pit, and the same shall not be deemed a violation of this Code as long as it is maintained according to the building code of said City, if applicable.

Sec.8-9 Same--Supervision required.

Every person who maintains or operates a barbecue pit or fireplace shall be required to constantly supervise said barbecue pit or fireplace and extinguish the same after use. (Ord. No. 12A)

Sec.8-10 Same--Not used for trash, etc.

Nothing in Sections 8-8 or 8-9 shall be construed to allow the burning of trash or refuse in a barbecue pit, unless the same is used as a fuel for the purpose of firing said pit and cooking food thereon. (Ord. No. 12A, 7-3-74)

ARTICLE II. FIRE PROTECTION SIGNAL SYSTEMS

Sec.8-11 Fire protection signal systems to be connected to 3rd party monitoring system

All structures required to install fire protection signal systems by the Codes as adopted by the City shall comply therewith and all portions of the alarm system shall be connected to a third party (entity) fire alarm monitoring system. Such monitoring system must meet the requirements of the Fire Chief and must provide monthly reports as required by the Chief.

Sec.8-12 Inspection of fire protection system.

Each system of a property must be checked quarterly by a qualified person and an annual report provided by such person to the Fire Chief. (Ord 07-02, 3-7-07)

Sec.8-13 False alarms, reports required, failure to take corrective measures unlawful, civil suit authorized.

- (A) Should more than three (3) false alarms occur in a single system within thirty (30) consecutive days, the Fire Chief may require a written report to be submitted by the owner of the structure in which the system is located, or by an employee, agent or other person responsible for the structure.
- (B) The Fire Chief may require such report to contain information concerning the particulars of the alarm system involved, the causes of the false alarms, the name and address of the person or entity inspecting the alarm system, the steps taken to correct the causes of the false alarms, and any other pertinent information.
- (C) Such report shall be submitted within fifteen (15) days subsequent to service of written notice upon the person required by the Fire Chief to make the report.
- (D) Failure to submit the report as required by the Fire Chief within fifteen (15) days subsequent to service of notice, shall be unlawful and each day said report is not submitted thereafter shall constitute a separate violation.
- (E) Prior to the submission of the report or subsequent thereto, the Fire Chief may require, in writing, the owner of the structure to take specific corrective measures to prevent further false alarms.
 - (1) Notice of the required corrective measures shall be deemed given the owner if written notice thereof is served upon such owner's manager, employee or agent, or upon the occupant or lessee of the structure involved, or in the event of a condominium, upon the condominium manager or any member of the condominium association board.
 - (2) It shall be unlawful for a property owner to fail to complete within thirty (30) days after service of notice thereof, the corrective measures required by the Fire Chief, and each day thereafter such corrective violation.
 - (3) In the event such corrective measures cannot be completed within thirty (30) days from service of written notice thereof as aforesaid, the owner shall, prior to the expiration of said thirty (30) days, notify the Fire Chief in writing of the reasons such corrective measures cannot be taken. The Fire Chief may then, in his discretion and in writing served as aforesaid, extend the time period for such corrective measures to be completed. Failure of the owner to complete such corrective measures within the extended time period shall be unlawful and each additional day thereafter shall constitute a separate violation.
- (F) It is hereby declared that the City will be irreparably damaged by the violation of this Section by any person, and the City is, therefore, hereby empowered to bring suit in any court of competent jurisdiction to enjoin the violation of this Section

and collect a civil penalty in the sum not to exceed Two Hundred Dollars (\$200) for each day that this Section is violated.

Sec.8-14 Tampering with alarm system unlawful.

It shall be unlawful for any person to tamper with, molest, damage, disable, or otherwise interfere with any fire alarm system required by this Chapter.

Sec.8-15 False alarms unlawful.

It shall be unlawful for any person to intentionally submit a false fire alarm or to intentionally cause a fire alarm system to send a false alarm.

Sec.8-16 Resetting of fire alarm system unlawful.

It shall be unlawful for any person other than the Fire Chief or duly authorized member of the Fire Department, or a person under the direct supervision of and in the presence of a member of the Fire Department, to reset a fire alarm system subsequent to a fire alarm emanating from such system.

Sec.8-17 Fire alarm requirement--Deadline.

All buildings that will be required to have a fire alarm system pursuant to the Standard Code, and did not have one on March 22, 1982, shall be required to install at least a manual pull-type that is connected to a central fire alarm monitoring system by March 22, 1983. (Ord.89A)

ARTICLE III. FIRE DEPARTMENT

Sec.8-18 Creation of Fire Department and filling of offices.

The City does hereby establish a Fire Department, which Fire Department shall consist of a Fire Chief and up to twenty-five (25) subordinate firemen. (Ord. No. 87, 11-25-80; 08-12)

Sec.8-19 Fire Chief and firemen, hiring.

The City Manager shall hire the Fire Chief and all subordinate firemen, and the Board shall set the compensation that they shall receive for the performance of their duties. The City Manager is authorized to fire any fireman pursuant to the Personnel Policies Manual adopted by the City. (Ord. No. 87, 11-25-80)

Sec.8-20 Volunteer Fire Fighter's Force created.

The City is hereby authorized to create a Volunteer Fire Fighters' Force which Volunteer Force shall be under the direct charge and control of the Fire Chief. The Volunteer Force may consist of up to thirty (30) members. (Ord. No. 88, 2-18-81)

Sec.8-21 Same--Board to determine remuneration.

The City Council shall by resolution, authorize the employment of and establish remuneration, if any, to be paid to the Volunteer Fire Fighters' Force in the performance of their duties. (Ord. No. 88, 2-18-81)

Sec.8-22 Same--Appointment and requirements.

Appointment to the Volunteer Fire Fighters' Force shall be made by the Fire Chief with the approval of the City Manager. All personnel appointed shall meet qualifications and requirements that may be established by the Fire Chief and/or City Manager.

Sec.8-23 Same--Termination.

The Fire Chief and/or the City Manager shall have full authority to terminate any Volunteer Fire Fighter that has been appointed pursuant to this Article. (Ord. No. 88, 2-18-81)

ARTICLE IV. SPECIAL BUILDING PROVISIONS

Sec.8-24 Special Building Provisions.

- (A) Buildings (restaurants, offices, commercial buildings) two and three stories shall be provided with a dry standpipe system, unless the type of construction and the square footage of the building in the opinion of the Fire Chief and the Building Official, would constitute an unusual hazard. Then, in that case, a Class III standpipe system would be required.
- (B) Hotels, motels and multi-family residential (except one and two family dwellings), shall be provided with a dry standpipe system.
- (C) All buildings four or more stories in height shall be provided with a Class III standpipe system, with one or more hose cabinets on each floor, equipped with a minimum of 75 feet of a single jacket, rubber-lined hose and a variable shutoff nozzle. The size of the standpipe risers to be determined by N.F.P.A. #14 standpipe and sprinkler systems. (Ord. No. 89A, 3-22-82)

Sec.8-25 - Knox Box Entry System - Required.

(A) PURPOSE

The City Council of South Padre Island determined that the health welfare and safety of the citizens and business owners of the City of South Padre Island are promoted by requiring certain structures to have a key lock box installed on the exterior of the structure to aid the South Padre Island Fire Department with gaining access to or within a structure when responding to calls for an emergency service, and to aid access into or within a building that is secured or is unduly difficult to gain entry due to being either unoccupied or the occupants are unable to respond.

(B) LOCKBOX SYSTEM (KNOX BOX)

1. The following structures shall be equipped with a lock box at or near the main entrance or such other location as required by the Fire Chief or designee:
 - (a) Commercial or industrial structures protected by an automatic fire alarm system or automatic suppression system, or such structures that are secured in such a manner that restricts access during an emergency. (metal roll up entry doors, etc.)
 - (b) Multi-family-residential structures comprised of four or more units that have restricted access through locked main complex entry access doors and have a common corridor for access to the living units.
 - (c) All multiple story commercial/business occupancies that have elevators serving upper floors
 - (d) Any premises with manual or power operated gates necessary to be opened for Fire Department access.
2. All new construction and new occupancies by tenants subject to this section shall have a key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this section and subject to this Section shall have three (3) months from enactment date of this ordinance to have a key lock box installed and operational.
3. The type of lock boxes to be implemented within the City shall be a Knox Box brand system.

(C) INSTALLATION

1. The size and model of the Knox Box installed shall be determined by the number of keys to be placed in the box and the specifications set forth by the Knox Box manufacturer.

2. Number of keys in the Knox Box cannot exceed the maximum number recommended by the box manufacturer. Each key must be labeled.
3. All Knox Boxes shall be installed to the left side of the main business door or in a specified location as directed by the Fire Chief or his/her designee.
4. All Knox Boxes shall be mounted sixty inches from the ground.
5. In the event that the Knox Box cannot be installed at the aforesaid location and/or height, the Fire Chief or his/her designee may designate in writing a different location and installation specifications.
6. All Knox Boxes may have a Tamper Switch installed in the building as an intrusion/burglar alarm.
7. All realty and/or property with an electronic security gate shall have the Knox Box installed OUTSIDE of the gate with the access code and required keys inside.
8. The Fire Chief or designee must approve any changes in the installation.
9. Purchase and installation of the Knox Box will be the sole responsibility of the building owner, property owner, condominium association or property owner association.

(D) MAINTENANCE. The operator of the building shall immediately notify the Fire Chief or designee when any locks are added, changed or rekeyed. Additional labeled keys, access cards or access codes should be added to the Knox Box immediately if the old keys, access cards or access codes are no longer effective.

(E) CONTENTS OF LOCK BOX. The contents of the lock box should include, but are not limited to, the following:

1. Keys to locked main points of ingress or egress, whether on the interior or exterior of such buildings.
2. Keys to all mechanical rooms.
3. Keys to all locked electrical and utility rooms.
4. Keys to elevator and their control rooms.
5. Keys to the Fire Alarm panels and Fire Suppression Systems.
6. Keys to re-set pull stations or other Fire Protective devices.
7. Building Access Cards, as needed.
8. Keys to any other areas as requested by the Fire Chief or designee.
9. Card containing the names of building emergency contact personnel and their telephone numbers in the event of an emergency
10. Any fenced or secured areas

Note: The contents of the lock box must be *labeled* whether they are keys, cards or codes.

(F) FIRE DEPARTMENT RESPONSIBILITIES. No fire department personnel shall carry a Knox Box Master Key unless at an emergency scene.

(G) EXCEPTIONS TO REQUIREMENT TO INSTALL A LOCK BOX SYSTEM

The following structures are exempt from the mandate to install a key lock box system:

1. Single-family structures and multi-family structures that do not meet the definition set forth in Sec. 8-25 (B)1.
2. Businesses or properties that are open and staffed 24 hours, 365 days per year.
3. Rental storage facilities where there is a single lock on the separate storage pods that are renter supplied; provided, however, the entry security gates(s) will require a Knox Box if electronically controlled, or locked with a master key issued by the landlord to all tenants. [Sec.8-26 through 8-29 reserved]

Chapter 9

GARBAGE, TRASH, WEEDS AND OTHER WASTE MATERIAL

ARTICLE I. GARBAGE AND TRASH

Sec.9-1 Garbage--Defined.

"Garbage" shall mean all animal and vegetable matter such as, but not limited to, such items as meat scraps, other food scraps, bread, bones, fruit and vegetable peelings and remains, and other deleterious substances.

(Ord No. 20, 4-17-74)

Sec.9-2 Trash--Defined.

"Trash" shall mean rubbish such as, but not limited to, feathers, tin cans, bottles, paper, rags, grass, boxes and cartons, old clothes and shoes, ashes, grass trimmings, hedge, tree, plant and shrub trimmings, leaves and limbs, yard cleanings, and similar items.

(Ord No. 20, 4-17-74)

Sec. 9-2.1 Construction Trash—Defined.

"Construction Trash" shall mean rubbish or trash of any nature from the site of building construction, building repairs, re-modeling, demolition or any type of construction work that requires a permit from the City and generates any type of material that is thrown away or is not used as part of the construction. [Ord 09-04]

Sec.9-3 Littering prohibited.

It shall be unlawful for any person to throw, drop, cast or deposit any form of garbage, trash, litter or waste matter upon the beach, streets, alleys, sidewalks, and yards or premises, public or private, within the City of South Padre Island. (Ord No. 6, 7-5-73)

Sec.9-4 Stagnant water--Accumulation prohibited.

It shall be unlawful for any person who shall own or occupy any lot or lots in the City, to permit or allow holes or places on said lots where water may accumulate and become stagnant or to permit or allow the accumulation of stagnant water thereon, or permit the same to remain thereon. [Ord No. 20A, 4-16-75]

Sec.9-5 Carrion, etc.--Prohibited.

It shall be unlawful for any person who shall own or occupy any house, structure, building, buildings, establishment, lot or yard in the City, to permit or allow any carrion, garbage, trash, filth or any other impure or unwholesome matter liable to produce disease to accumulate or remain thereon.

(Ord No. 20A, 4-16-75)

Sec.9-6 Weeds, trash, etc.--Accumulation prohibited.

It shall be unlawful for any person who shall own or occupy any lot or lots in the City, to permit or allow weeds, rubbish, brush, garbage, trash or any other matter liable to produce disease, to accumulate or grow on said lot, lots or premises. (Ord No. 20A, 4-16-75)

Sec. 9-6.1 Definitions:

Dune – A natural or man-made emergent mound, hill or other ridge of sand.

Wetland – An area of land that tends to hold water (freshwater or saltwater), and is delineated and designated by the U.S. Army Corps of Engineers.

Native Plants and Grasses – as defined and listed by the City of South Padre Island Website (www.myspi.org), Keep South Padre Island Beautiful Committee section.

Invasive or Noxious Plants - as defined and listed by the City of South Padre Island Website (www.myspi.org), Keep South Padre Island Beautiful Committee section.

Sec. 9-6.2 Criteria for Exemption: (Must meet at least one established criteria)

The Code enforcement department of the City (currently called Environmental Health Services) shall act only upon requests for designation and shall have no authority of power to designate property as natural habitat lot(s) unless the property owners obtain said designation. (Applicants may request guidance on natural habitat lots from the Code enforcement department of the City prior to completing an application.)

Each lot shall be considered separate for designation purposes and must meet at least one if the following;

(a) The lot(s) must have an established dune **or**

(b) The lot(s) must have an established wetland **or**

(c) The lot(s) must contain primarily native plants and grasses (naturally occurring) with no more than 25% of the lot containing invasive or noxious plants and grasses **and**

The lot(s) must be maintained clear of all debris, litter and junk.

Lots located east of the Dune Protection Line, as defined by Chapter 22 of the Code of Ordinances, are hereby exempt from the requirements of Sec. 9-6 of this Chapter.

Sec. 9-6.3 Procedures for Mowing Exemption Application:

The property owner shall obtain an application from the City. The completed application shall be returned to the Code enforcement department of the City (currently called Environmental Health Services Department) with a non-refundable initial application fee of \$50, made payable to the City of South Padre Island. Initial application fee will be waived until December 30, 2011. Applications will be available on the City's Website or at City Hall.

Within forty-five (45) calendar days of receipt of the completed application, the Code enforcement department of the City (currently called Environmental Health Services), or their designated representative, shall inspect said property for compliance with the minimum requirements to obtain exemption.

After said inspection occurs, the Code enforcement department of the City (currently called Environmental Health Services Department) shall notify the applicant of its findings. If the property meets the minimum requirements to qualify for the exemption, the Code enforcement department of the City (currently called Environmental Health Services) shall notify the property owner. The owner will then be issued one sign to be installed on the exempt property identifying it as a "Qualified Natural Habitat Lot." This sign shall be installed by the owner in a manner that shall cause it not to become a nuisance in the event of a windstorm event. The sign shall be visible from the nearest right-of-way.

This exemption designation is renewable annually and the property owner shall re-apply by August 31st of each year. The designation will expire on September 30th of each year. The fee for renewal shall be \$20 annually and failure to re-apply will result in loss of exemption designation.

Qualified Natural Habitat Lot designation is non-transferable upon sale or any transfer of ownership of designated lot(s).

All Designated Natural Habitat Lots are exempt from mowing required by Sec. 9-6 of this Chapter.

Sec. 9-6.4 Notice of Violation:

After inspection by Code enforcement department of the City (currently called Environmental Health Services Department) or their designated representatives, if non-compliance with exemption status is found, the Code enforcement department of the City (currently called Environmental Health Services) shall send a notice of non-compliance to the owner of said lot(s) providing the property owner with the information needed to bring the property into compliance. This notice shall be sent via Certified Mail, Return-Receipt requested. The owner shall be given 20 calendar days from the date on the notice in which to bring the property into compliance with the ordinance requirements. Failure to do so within the time allotted shall result in the loss of exemption status. This will also result in the City proceeding with achieving compliance with Section 9-6 by using the provisions of Chapter 9, Section 9-9 of the Code of Ordinances.

Sec. 9-6.5 All non-exempt lots shall keep weeds and grasses under eight inches (8")

All non-exempt lots shall keep weeds and grasses under eight inches (8").

Sec.9-7 Notice to property owner--Non-compliance.

Whenever any condition described in this ordinance is found to exist on any premises within the City, the owner of such premises shall be notified by the City, in writing, to correct, remedy or remove the condition within seven (7) days after such notice is issued and it shall be unlawful for any person to fail to comply with such notice. (Ord No.15-16)

Sec.9-8 Notice to property owner---Method

(A) The notice provided for by this Article shall be served personally on the owner to whom it is directed, or shall be given by letter addressed to such owner at his last known address as shown on the tax rolls of the appraisal district for the property upon which the violation is occurring or as provided by Chapter 342 of the Texas Health & Safety Code.

- (B) If personal service cannot be obtained:
- (1) by publication at least once;
 - (2) by posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (3) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (C) If a municipality mails a notice to a property owner in accordance with this Subsection, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (D) In a notice provided under this section, a municipality may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the municipality without further notice may correct the violation at the owner's expense and assess the expense against the property.
- (E) If a violation covered by a notice under this subsection occurs within the one-year period, and the municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted by this Article and assess its expenses as provided by Section 342.007 of the Texas Health and Safety Code.

Sec.9-9 Assessment of expenses against property.

In the event the owner of any lot or premises upon which a condition described in this Article exists fails to correct, remedy or remove such condition within seven (7) days after notice to do so is given in accord with this Article, the City may do such work or make such improvement as are necessary to correct, remedy or remove such condition, or cause the same to be done, and pay therefor and charge the expenses incurred thereby to the owner of such lot. Such expenses shall be assessed against the lot or real estate upon which the work was done or the improvements made. The doing of such work by the City shall not relieve such person from prosecution for failure to comply with such notice in violation of this Article. (Ord No. 15-16)

Sec.9-10 Statement of expenses--Filing.

Whenever any work is done or improvements are made by the City under the provisions of this Article, the Mayor, City Manager, or duly designated Sanitation Official, on behalf of the City, shall file a statement on the expenses incurred thereby with the County Clerk. Such statement shall give the amount of such expenses, the date or dates on which the work was done or the improvements were made and administrative fees. (Ord No. 15-16)

Sec.9-11 Lien for expenses; interest, suit for foreclosure.

After the statement provided for in Section 9-10 is filed, the City shall have a privileged lien on the lot or real estate upon which the work was done or improvements made, to secure the expenses thereof. Such lien shall be second only to tax liens and liens for street improvements, and the amount thereof shall bear interest at the rate of ten (10) percent per annum from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the City and the statement of expenses made in accord with Section 9-10, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. (Ord No. 20A, 4-16-75)

Sec.9-12 Owners and occupants to maintain clean premises.

It shall be the responsibility of the owner, contractor, and/or occupant of any residence, construction site, store or other place of business situated within the City shall exercise reasonable diligence at all times to keep the premises clean of trash, garbage and/or other used or waste materials thrown or left on said premises by its customers, and to take reasonable measures to prevent same drifting or blowing to adjoining premises.

- (A) **Receptacles.** Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above referred to articles of waste may be disposed of.
- (B) **Signs.** Each and every business establishment shall place upon its premises in a conspicuous place or places in close proximity to each receptacle above referred to, a sign or signs which shall, in essence, convey to its customers a request that they use such receptacles for the disposal of waste material. (Ord 20A, 4-16-75)

Sec. 9-12.1 Brush and/or Bulky Item(s) Collection

At no time shall an owner, tenant or occupant of any property place brush and/or bulky item(s) from their property on the right-of-way for collection unless it is on or after the 25th of the month but prior to the City's authorized collection agency pickup date for brush or bulky items, currently the first workday of the month (any change in pickup date will be posted on the City's website). Ord 12-16, 12-5-12

Sec. 9-13 Garbage/Trash Containers

(A) **Containers Required.** It shall be the duty of every person, owner, agent, tenant, lessee, or occupant of any residence, house, building, apartment, store or business establishment within the City, which has an active water and sewer connection, and/or electrical connection, or where persons reside, gather, or congregate, or where food is prepared or served, or trash collects or accumulates, to provide and maintain in good order and repair, a container or containers as herein provided, for the deposit of garbage or trash for collection by a duly authorized and franchised collection agency, person or corporation.(Ord. 20A, 4-16-75; Ord No. 153, 3-6-91)

(B) **Specifications.** The container required by this Article shall be a receptacle of a solid and durable grade and quality, as provided by the franchised collection agency which shall have a lid. When the container is left outside, the lid must be closed when not filling or emptying. If the container furnished by the garbage collection company should become in disrepair or unusable due to normal wear and tear, then the same shall be replaced by the garbage collection company at its expense, otherwise the customer shall be responsible for paying for any necessary replacement of the cart which replacement cart will be furnished to the customer by the garbage collection company at their cost.

- 1) Single family residential uses with no more than four (4) units shall be issued wheel-cart service for each unit from the franchised collection agency.
- 2) Residential uses having more than four (4) units per lot but less than thirteen units per lot may have their choice of either: 1) a dumpster, or 2) one wheel cart garbage container per residential unit from the franchised collection agency, provided that except for the designated days of trash collection, the wheel carts shall not be visible from the right of way.
- 3) Residential units having more than twelve (12) residential units per lot shall be issued a dumpster from the franchised collection agency. The space designated for the location of the garbage container cannot be located in the public right-of way, cannot be located in the front yard setback, and cannot diminish and/or occupy areas designated for parking. It is further required that all garbage dumpsters and the area designated for its location must be enclosed and/or screened from the public's view (right of way) and all container lids must be closed at all times except when filling or emptying.
- 4) Commercial businesses generating less than two (2) cubic yards of garbage per week may have their choice of either: 1) a dumpster, or 2) no more than two (2) wheel

cart garbage containers from the franchised collection agency. Except for the designated days of trash collection, the wheel carts shall not be visible from the right of way.

5) Commercial businesses generating more than two (2) cubic yards of garbage per week shall be issued a dumpster from the franchised collection agency. The space designated for the location of the garbage container cannot be located in the public right-of way, cannot be located in the front yard setback, and cannot diminish and/or occupy areas designated for parking. It is further required that all garbage dumpsters and the area designated for its location must be enclosed and/or screened from the public's view (right of way), and all container lids must be closed at all times except when filling or emptying. Sites granted exceptions to previous ordinances, or sites granted variances under previous ordinances will have 90 days from the date of the approval of this ordinance to come into full compliance.

6) In the event an existing residential project or existing commercial business can not reasonably locate the required dumpster in any other location except within the front yard setback the Building Official may grant a permit to locate the dumpster in the front yard setback even if it reduces the required parking for which a variance is hereby granted. The dumpster must meet all screening requirements set out above.

(C) Location. At no time shall the container or trash be placed within the street or right of way. (Ord No. 20A 4-16-75; Ord No. 153, 3-6-91)

(D) Sanitation maintenance required. Every garbage and trash container required by this Article shall be maintained in as sanitary condition as possible considering use to which it is put; and shall be thoroughly cleansed as needed by washing, scalding or otherwise. (Ord 20A)

Sec. 9-14 Garbage, Trash Franchise

(A) Removal of garbage, trash by authorized agency.

Every person required to provide containers by this Article is further required to have said garbage and trash removed from their premises by an agency, corporation, or person duly franchised by the City to collect garbage and trash; and such person or entity is required to pay the approved fee and charges therefor and the failure to use or pay for solid waste collection services shall be deemed a violation of this Chapter. and may be subject to a fine of up to Two Thousand Dollars (\$2,000.00) as provided by Section 21-2 of the Code of Ordinances. (Ord No. 20A, 4-16-75; Ord No. 153, 3-6-91)

(B) Franchise required for garbage, trash removal.

It shall be unlawful for persons, corporations, or agencies to operate a garbage and trash removal service within the City limits, unless they have obtained a franchise from said City for this purpose. (Ord No. 20A, 4-16-75)

(C) Garbage and trash collection franchise granted.

The City has granted a garbage and trash collection franchise to Allied Waste Services.

Sec. 9-15 Fees for Waste Removal Services.

(A) Commercial accounts may make such arrangements for the type and service that is reasonably necessary for their business and shall pay for such services as may be agreed to by and between the customer and the company holding the franchise for the collection of solid waste and/or garbage. The commercial customer shall contract for sufficient containers and frequency of pickup so that there shall not be any accumulation or trash outside of said containers. (Ord No. 153, 3-6-91)

- (B) Residential customers and small commercial customers (small commercial customers being defined as a non-residential customer that generates less than two cubic yards of solid waste per week) are required to prepay for garbage services from March 1st of each year or the pro-rata share of each year if the service is commenced after March 1 of each year.

Sec. 9-16 Container Required for Construction Trash.

Any type of construction work that requires a permit from the City and generates any type of material that is thrown away or is not used as part of the construction must obtain from the franchised collection agency an appropriate container to dispose of the construction trash at the time that they obtain a permit for the construction from the City.”

Sec. 9-17 Penalty for Violation.

An violation of this Article I of Chapter 9 of the Code of Ordinances and may be subject to a fine of up to Two Thousand Dollars (\$2,000.00) as provided by Section 21-2 of the Code of Ordinances.

Sec. 9-17 thru 9-22 reserved for future expansion

**ARTICLE II.
JUNKED VEHICLES**

Sec.9-23 Definitions.

The following terms whenever used or referred to in this Article shall have the following respective meaning unless a different meaning clearly appears from the context:

- (A) Police Department shall mean the Police Department of the City.
- (B) Demolisher means any person whose business is to convert motor vehicles into processed scrap metal or otherwise to wreck or dismantle motor vehicles.
- (C) Junked Vehicle means any motor vehicle as defined in Section 1 of Article 6701d-11, V.A.C.S., as amended, which vehicle is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked, dismantled, partially dismantled, or discarded.
- (D) Motor Vehicle means any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.
- (E) Antique Auto means passenger cars or trucks that were manufactured in 1925 or before, or which became thirty-five (35) or more years old.
- (F) Special Interest Vehicle means a motor vehicle of any age which has been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- (G) 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 his own use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

(Ord. No. 30, 4-16-75)

Sec.9-24 Junked vehicles declared nuisance.

Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the State, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State, and such vehicles are therefore declared to be a public nuisance. (Ord. No. 30, 4-16-75)

Sec.9-25 Junked vehicles unlawful.

It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided) within the City, any junked vehicle or parts of portion thereof, for any period of time in excess of ten (10) days. (Ord. No. 30, 4-16-75)

Sec.9-26 Notice to owner.

Whenever it is brought to the attention of the Chief of Police of the City that a public nuisance, as defined herein, exists on private property or a public right-of-way or public property in the City, the Chief of Police shall give or cause to be given to the owner or the occupant of the private or public premises, or to the owner or the occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists, in writing, a notice, stating the nature of the public nuisance and that it must be removed and abated within ten (10) days after service of notice; and further, that a request for hearing must be made before the expiration of said ten (10) day period, said notice to be mailed, by certified or registered mail with a five (5) day return requested, to the owner or occupant of the premises whereupon such public nuisance exists, or to the owner or occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than ten (10) days from the date of such return. (Ord. No. 30, 4-16-75)

Sec.9-27 Public hearing required.

A public hearing shall be had prior to the removal of the vehicle or part thereof as a public nuisance and the same shall be held before the Municipal Judge of the City when such hearing is requested by the owner or occupant of public or private premises, or by the present occupant of the premises adjacent to the public right-of-way on which said vehicle is located. Such hearing shall be held within ten (10) days after service of notice to abate the nuisance. (Ord. No. 30, 4-16-75)

Sec.9-28 Order for removal--Violation unlawful.

- (A) After the hearing is held by the Municipal Judge, as herein provided, if said Judge finds that such a nuisance as herein defined exists, he shall order the owner or

occupant of the private or public premises, or the owner or occupant of the premises adjacent the public right-of-way on which said vehicle is located, to remove such junked vehicle within ten (10) days after said order is given to such owner or occupant. Any resolution or order requiring the removal of the vehicle or part thereof, shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

- (B) It shall be unlawful and a violation of this Article for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by said order. (Ord. No. 30, 4-16-75)

Sec.9-29 Owner required to remove vehicle if hearing not requested.

In the event the owner or occupant of the public or private premises, or the owner or occupant of the premises adjacent to the public right-of-way, does not request a hearing as herein above provided, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice. (Ord. No. 30, 4-16-75)

Sec.9-30 Exceptions to Article II.

This Article shall not apply to:

- (A) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (B) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junk yard; or
- (C) Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicle and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Sec.9-31 Administration of Article by City employees or agents.

The administration of this Article shall be by regularly salaried, full-time employees of the City, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. (Ord. No. 30, 4-16-75)

Sec.9-32 Authority of police to remove vehicle; notice to Texas Highway Department.

- (A) Within no less than ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located, if a hearing is not requested, or if a hearing is requested, within no less than ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, the Chief of Police or members of the Police Department of the City, acting under the direction of the Chief of Police, may, if said nuisance has not

been abated, remove or cause to be removed the vehicle which was the subject of such notice, to a suitable City storage area designated by the Mayor. Such vehicle shall be stored in such storage area for a period of not less than ten (10) days, during which period any party owning or claiming any right, title or interest therein, shall be entitled to claim possession of same by the payment to the City of the actual cost to the City of abating such nuisance. The Chief of Police may, in such cases, if he deems it necessary, require such person to post bond of not more than \$50 nor less than \$25, conditioned that such person will not use said vehicle to create another nuisance in the City.

- (B) Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.(Ord. No. 30, 4-16-75)

Sec.9-33 Sale or scrapping of removed vehicle.

When any junked vehicle has remained in the storage area provided in Section 9-32 for not less than ten (10) days, it shall be the duty of the Chief of Police to dispose of same by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received therefor, or to remove same to any suitable site designated by the City for processing as scrap or salvage. (Ord. No. 30, 4-16-75)

Sec.9-34 Proceeds of sale--Disposal.

Out of the proceeds of sale the Chief of Police shall pay for the cost of removal and storage and the balance, if any, shall be paid to the person entitled thereto (either owner or lienholder). If there is not a bid or offer for the junked vehicle, the Chief of Police may dispose of same by causing it to be demolished or removed to a place designated by the City, or by permitting it to be removed by a demolisher, who is willing to do so for the benefit of the junk or parts he can salvage. (Ord. No. 30, 4-16-75)

Sec.9-35 Delegation of police authority.

Whenever the Chief of Police is charged with the enforcement of this Article, he may delegate said authority to any regular salaried employee of the Police Department. (Ord. No. 30, 4-16-75)

Sec.9-36 Texas Abandoned Motor Vehicle Act--Adopted.

In addition to the foregoing provisions, the City hereby adopts and makes applicable to the City the Texas Abandoned Motor Vehicle Act, as amended, and hereby grants and gives to its duly authorized agent the authority, right, and privilege to do and perform all the necessary acts under the said Texas Abandoned Motor Vehicle Act, to fully carry out and implement the purpose and intention of same. (Ord. No. 30, 4-16-75)

Sec.9-37 Entry on private property to examine vehicles.

The Chief of Police, or his duly authorized agent, may enter upon private property for the purposes specified in this Article, and examine vehicles or parts thereof, obtain information as to the identity of vehicles, and to remove or cause the removal of a vehicle or parts thereof declared

to be a nuisance, in accordance with this Article. The Municipal Court shall have authority to issue all orders necessary to enforce this Article. (Ord. No. 30, 4-16-75)

Chapter 10

HEALTH AND SANITATION

ARTICLE I. SANITARY SEWER

Sec.10-1 Effluent discharge unlawful.

It shall be unlawful for any person to permit water or any effluent from any hydrant, fountain, sink, washbowl, automobile wash rack, air conditioning cooling tower, or any other apparatus discharging water or effluent, situated upon premises owned or controlled by such person, to run upon any sidewalk, street or alley to be or become muddy or continuously wet, or so as to be a public nuisance.

(Ord. No. 22, 6-5-74)

Sec.10-2 Effluent discharge to sewer system required.

Any person who owns or controls premises upon which is located any apparatus which discharges unreasonable quantities of water or effluent therefrom, shall cause the discharge line from such apparatus to be connected to a sanitary sewer system, and failure to connect such apparatus shall be a separate violation.

(Ord. No. 22, 6-5-74)

Sec.10-3 Sanitary sewer system required.

(A) All residential and commercial establishments or any other structure or use of property that will produce sewage is hereby required to connect to the sanitary sewer system of Laguna Madre Water District or the sewer system provided by any other political subdivision of the State.

(B) No structure of any nature shall be erected within the City limits without connecting to said sanitary sewer system.

(Ord. No. 35, 11-19-75)

Sec.10-4 Suit for injunction authorized; penalty.

It is hereby declared that the City will be irreparably damaged by the violation of this Chapter by any person; the City is, therefore, hereby empowered to bring suit to enjoin the violation of this Chapter and collect a civil penalty in the sum not to exceed Two Thousand Dollars (\$2,000) for each day that this Chapter is violated. Suit to enjoin the violation of this Chapter and collect the civil penalty hereby imposed may be brought in any court of competent jurisdiction.

(Ord. No. 35, 11-19-75)

Secs. 10-5 through 10-9 Reserved for future expansion.

ARTICLE II. FOOD SERVICES

Sec.10-10 Adoption of Texas Food Establishment Rules

The definitions; the inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this ordinance shall be regulated in accordance with adoption by reference the provisions of the current rules or rules as amended by the Texas Department of State Health Services found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in The City of South Padre Island. Provided, that "regulatory authority" shall be understood to refer to the City of South Padre Island and its duly designated officials(s) who may be carrying out the duties provided for herein.

Sec.10-11 Violations of the Rules on Food Service Sanitation

Violations of the Rules on Food Service Sanitation are subject to the penalties and remedies provided for herein.

Sec.10-11.1 Definitions

The words "authorized agent or employee" mean the employees of the regulatory authority.

The words "food establishment" mean a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside food vendor.

The words "food service establishment" shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including any retail food store, bars, night clubs, saloon, cantinas, taverns, pubs, bakeries, schools, day cares, continental breakfast (hotel/motel), catering establishment, commissary, delicatessen-type operation that prepares sandwiches intended for individual portions, group residence, bed and breakfast, or any operation that is conducted from a mobile food unit. The term applied regardless of whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption, the location of food vending machines and supply vehicles.

The words "municipality of the City of South Padre Island" in this ordinance shall be understood to refer to the City of South Padre Island.

The words "regulatory authority" means the City of South Padre Island. (Health Department - Health Director)

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

The words "temporary food service" shall mean any food-service establishment that operates at a fixed location for a period of time of not more than 21 consecutive days in conjunction with a single event or celebration. Each physically separated stand or booth shall constitute a temporary food service establishment that requires a separate permit under this article. Provided, however, in any instance in which all operations within a stand or booth are not under the supervision and control of the same person, then a separate permit shall be required for each person who controls any portion of the activities within the stand or booth. For the purpose of this definition, an 'event' or 'celebration' shall mean a gathering of persons at a festival, bazaar, carnival, circus, public exhibition or sporting event.

Sec.10-12 Permits and Exemptions

(A) A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.

(B) A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this ordinance, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

Sec. 10-12.1 Certified Food Manager's required.

It shall be unlawful for any owner or operator of a permanent food establishment or food processing plant, during all hours of operation, to fail to have at least one person on the premises in charge of the operation that has a valid food protection manager's certification. This requirement shall not apply to retail food stores where only pre-packaged foods are sold, food vending machines, temporary food establishment(s) or religious/charitable organizations bake sales. Day Cares are exempt from this requirement.

Sec. 10-12.2 Issuance

Certified Food Manager's Certification must be obtained by passing a certified food managers examination approved by the Texas Department of State Health Services.

Sec. 10-12.3 Required training.

It shall be unlawful for any employees of a permanent food establishment to begin work without first having completed a minimum of two (2) hours of food sanitation training as

approved by the local Health Director. Two (2) hours of re-training shall be required every two (2) years to ensure employee performance of their duties in accordance with food service sanitation ordinance, rules and regulations.

Sec. 10-12.4 Posting requirements

Posting: Each food protection manager and food handler's food handling certification shall be at all times kept posted, filed or otherwise readily available for viewing by the City's health authority or designated representative.

Sec. 10-13 Issuance of Permit, License, or Certificate.

- A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, the applicable fee and the signature of each applicant. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
- B. Prior to approval of an application for a permit, license, or certificate the regulatory authority shall inspect the proposed food service establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.
- C. The regulatory authority shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of these rules, which license shall expire one year from its date, or upon transfer of ownership or change in management. A fee of \$100.00 shall be charged for each permit.
- D. The following fee schedule, which the City Council may change by resolution, applies to permits issued under this ordinance:
 - Permanent Permit Fees are as follows:

Permanent Establishment Permit, -----	see Sec. 2-75
Permanent Establishment Re-inspections -----	see Sec. 2-75
 - Temporary Permit Fees are as follows:

Temporary Permit, (City Sponsored Events and nonprofit) -----	\$00.00
Temporary Permit, (One function, up to three consecutive days) -----	\$25.00
Temporary Permit, (Can be used up to six times within calendar year) -----	\$50.00
Temporary Permit, (Can be used unlimited times within a calendar year) -----	\$100.00

Sec. 10-13.1 Review of Plans

- A. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications must be approved by the regulatory authority if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.
- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Sec.10-14 Suspension of Permit, License, or Certificate.

(A) The regulatory authority may, without warning, notice, or hearing suspend any permit, license, or certificate to operate a food service establishment if the holder of the permit, license, or certificate does not comply with the requirements of these rules, or if the operation of the establishment does not comply with the requirements of these rules, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by Paragraph (B) of this section. When a permit, license, or certificate is suspended, food service operations shall immediately cease. Whenever a permit, license, or certificate is suspended, the holder of the permit, license or certificate shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

(B) Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate, or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

(C) Whenever a business closes for remodeling, an inspection by the regulatory authority is necessary before re-opening.

Sec.10-15 Revocation of Permit, License, or Certificate.

The regulatory authority may, after providing opportunity for a hearing, revoke a permit, license, or certificate for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit, license, or certificate, or the person in charge, in writing of the reason for which the permit, license, or certificate is subject to revocation and that the permit, license, or certificate shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within such ten (10)

days' period. If no request for hearing is filed within the ten days' (10) period, the revocation of the permit, license, or certificate becomes final.

Sec.10-16 Service of Notices

A notice provided for in these rules is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license, or certificate. A copy of the notice shall be filed in the records of the regulatory authority.

Sec.10-17 Hearings.

The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the evidence at such hearing, the regulatory authority shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license, or certificate by the regulatory authority.

Sec.10-18 Board of Appeals.

- (A) There is hereby established a board to be called the Food Services Board of Appeals (hereinafter called Board) which will consist of five regular members and four alternate members, which Board shall be appointed by the City Council of the City.
- (B) Each member of the Food Services Board shall be appointed for a term of two years except that the initial Board shall have two of its regular members appointed for one year and two of the alternate members appointed for one year. All Board members' term of office shall be considered to commence as of May 1st and terminate as of April 30th of the year appropriate for their term of office. Vacancies shall be filled for an unexpired term for the particular Board member. Each member shall continue to serve until his successor is appointed. The City Council may remove any Board member at its discretion.
- (C) Any four members of the Board shall constitute a Quorum for the purpose of conducting business. In varying the application of any provision of this Article or in modifying an order of the Health Inspector, the concurring votes of the majority present, but not less than three members, shall be required. A Board member shall not participate in nor vote in a case in which he has a personal interest.
- (D) The Board shall make a record of all of its proceedings which shall set forth in writing the reasons for their decisions, the votes of each member participating therein, the absence of a member and any failure of a member to vote.
- (E) The Board shall establish rules and regulations for its own procedure consistent with the provisions of this Code. The Board shall meet to hear appeals within the

time requirements for appeals required by this Article. The Board shall also meet when required by the Health Inspector of the City and may meet at such regular intervals that it may choose.

- (F) The Food Services Board of Appeals decision shall be final in any matter pertaining to this Article and any appeals from the Board's final decision shall be to a Court of competent jurisdiction.

Sec.10-19 Application after Revocation.

Whenever a revocation of a permit, license, or certificate has become final, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.

Sec.10-20 Inspection Frequency.

An inspection of a food service establishment may be performed at least once every six months. Additional inspections of the food service establishment may be performed as often as are necessary for the enforcement of these rules.

Sec.10-21 Access.

Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purposes of making inspections to determine compliance with these rules. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

Sec.10-22 Report of Inspections.

Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on an inspection report form.

The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public disclosure to any person who requests it according to law.

Sec.10-23 Correction of Violations.

- (A) The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) If an imminent health hazard exists, such as a lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
 - (2) All violations of 3- point weighted items shall be corrected as soon as possible, but in any event, within ten (10) days following inspection. Within fifteen (15) days after the inspection, the holder of the permit, license, or certificate shall submit a written report to the regulatory authority stating that the 3- point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.
 - (3) All 4- point or 5- point weighted items require immediate corrective action not less than 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.
 - (4) When rating score of the establishment is less than 70, the establishment shall immediately cease doing business or serving the public-and may not re-open without approval of the Health authority
 - (5) In the case of temporary food service establishments, all violations shall be corrected immediately. If violations are not corrected, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority or his designee.
- (B) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the regulatory authority within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within 20 days of receipt of that request.
- (C) Whenever a food service establishment is required under the provisions of this rule to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

Sec.10-24 Inspection Report Form.

An inspection report form based on the requirements of these rules shall be available at all times.

Sec.10-25 Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of these rules.

The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it

destroyed. A hearing shall be held so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of the rules.

Sec.10-26 Submission of Plans.

See Sec. 10-13.1

Sec.10-27 Pre-operations Inspection.

Whenever plans and specifications are required to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of these rules.

Sec.10-28 Procedure When Infection is Suspected.

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (A) The immediate exclusion of the employee from all food service establishments;
- (B) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
- (C) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (D) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

Sec.10-29 Penalties.

Any person who violates a provision of these rules, any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules, and any responsible officer of that permit holder or those persons shall be fined as provided by Sec. 21-2 of the Code or Ordinances.

Sec.10-30 Injunctions.

The regulatory authority may seek to enjoin violations of these rules.

Sec.10-31 MOBILE FOOD UNITS.

- (A) In this section:
 - (1) PERMIT HOLDER means the person to whom the health authority issues a permit for a mobile food unit permit required by Chapter 10 of the Code of Ordinances.
 - (2) MOBILE FOOD UNIT (MFU) has the meaning established in Title 25, Part 1, Chapter 288, Subchapter A (*Definitions*) of the Texas Administrative Code and shall also mean a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks and trailers) and used to store, prepare, display, serve or sell food. Mobile units must

completely retain their mobility at all times. A Mobile Food Unit does not include a stand or a booth.

- (3) Push carts and roadside food vendor are strictly prohibited.
- (B) All mobile food units shall comply with all applicable laws, including the requirements of this article, except as otherwise provided in this section. The Environmental Health Director or designee may impose additional requirements to protect against health hazards related to the conduct of mobile food units and may prohibit the sale of potentially hazardous foods. The provisions of this section shall be enforceable by the Environmental Health Director or designee.
- (C) Mobile Food Unit and Permit Requirements.
 - (1) Designated Areas. The designated areas for mobile food units are District zoned "EDC" ("Entertainment District Core") and "BF" ("Bay Front").
 - (2) No more than Six (6) mobile food unit permits may be issued per month on the Island.
 - (3) Applicant must be supported locally and have the signature of an owner or designee of a licensed, free-standing food unit on South Padre Island before being eligible for a permit. Limit one local owner's (or designee's) signature per applicant.
 - (4) Permit fees are as follows:
 - (a) September through February a monthly fee of \$100 shall be charged.
 - (b) March through August a monthly fee of \$500 shall be charged.
- (D) The City Manager or City Council may authorize additional "Designated Areas" with additional Mobile Food Establishments as needed.
- (E) A mobile food unit:
 - (1) Must obtain a health permit by the Health Director.
 - (2) Must demonstrate mobility of the mobile food unit at any time, if requested by the Environmental Health Director or designee.
 - (3) Must provide hand washing facilities within the mobile food truck (i.e. an insulated container with a spigot that can be turned on to allow potable, clean, free flowing warm water; a wastewater container); soap; disposable towels; and a waste receptacle.
 - (4) Must show evidence that restrooms and hand washing will be provided for patrons as necessary.
 - (5) Must have a current Texas Department of Motor Vehicle Registration Sticker.
 - (6) Must provide single-service articles, which are biodegradable or recycled products, for use by the consumers.
 - (7) All mobile food units may participate in South Padre Island special events.
- (F) The permit holder of a mobile food unit:
 - (1) Must comply with all requirements of Chapter 10 of the Code of Ordinances.
 - (2) Must apply to the Environmental Health Services Department prior to selling anything.
 - a. A mobile food establishment permit is valid for 30 days.
 - (3) Must submit proof of Sales and Use Tax Permit issued by the State of Texas. If the permit allows multiple locations, then you must provide evidence of being a "list filer" and show proof that the City of South Padre Island is included on that list.

- (4) Must display, at all times, the Health Permit in a conspicuous place where it can be easily read by the general public on the mobile food unit.
- (5) Shall keep the area around the mobile food establishment clear of litter and debris at all times.
- (6) Shall have adequate and approved garbage and refuse storage facilities for the operator's use and shall have garbage and refuse storage facilities immediately adjacent to the exterior of the mobile food establishments that are insect and rodent-proof for use by consumers. All garbage, refuse and garbage containers must be removed by the Mobile Food Unit upon departure.
- (7) Shall obtain a permit from the Fire Department for the use of Liquid Propane gas equipment for each mobile food establishment and shall make the permit available for inspection upon the request of the Fire Chief or designees or the Environmental Health Director or designee, if liquid propane is utilized by the Mobile Food Unit.
- (G) A mobile food unit may use a barbecue pit when:
 - (1) Must be enclosed in a trailer or the mobile food unit.
 - (2) The barbecue pit is used only for cooking. Processing, portioning, preparation, or assembly of food must be conducted from inside the mobile food establishment.
 - (3) A hand-washing system as defined in the Texas Food Establishment Rules, is provided adjacent to the barbecue pit.
 - (4) Food from a barbecue pit must be protected from the elements at all times. Including but not limited to airborne debris, flying insects, birds, and bird droppings.
- (H) A mobile food unit is limited to signs as required by Chapter 15. The signs must be secured and mounted flat against the mobile food unit, and may not project more than six inches from the exterior of the mobile food unit.
- (I) A permanent water or wastewater connection is prohibited.
 - (1) All water used in the mobile food unit must be from an approved public water system. A mobile food unit may also use commercially bottled water.
 - (2) The materials that are used in the construction of a mobile food unit's water tank and accessories shall be safe, durable, corrosion resistant, nonabsorbent, and finished to have a smooth and easily cleanable surface.
 - (3) A wastewater holding tank in a mobile food unit shall be sized 15% larger in capacity than the water supply tank and sloped to a drain that is 1 inch in inner diameter or greater and equipped with a shut off valve.
 - (4) Mobile Food Unit tank inlet.
A Mobile Food Unit's water tank inlet shall be:
 - (A) 19.1mm (3/4 inch) in inner diameter or less and
 - (B) Provided with a hose connection of a size or type that will prevent its use for any other service.
 - (C) Fill hose and water holding tank shall be labeled as "Potable Water."
- (J) Electrical service may be provided by:
 - (1) Temporary service;

- (2) An onboard generator with the making of noise not to exceed (75) decibels; or
 - (3) Solar panels.
 - (K) A mobile food unit's construction:
 - (1) Exterior shall be of weather-resistant materials and shall comply with all applicable laws.
 - (2) Interior shall be constructed of smooth, durable, easily cleanable surfaces. The mobile food unit shall be completely enclosed. No open truck beds; windows shall be screened or kept closed.
 - (3) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair and kept clean.
 - (L) Appointments for Mobile Food Unit inspections may be made by contacting the Environmental Health Department at (956) 761-8123, Monday – Friday, 8am – 5pm, excluding holidays.
 - (M) All permit holders shall comply with this section. A violation of this section shall be fined as provided by Sec. 21-2 of the Code of Ordinances.
- Sec. 10-31.1** The Food Truck Planning Committee will meet as necessary, to evaluate the programs effectiveness and will take their recommendations to City Council no later than April 17, 2017.
- Sec.10-32 FOOD TRAILERS.**
Notwithstanding the requirement of mobility, a food trailer which is transported by a vehicle and then detached is permitted so long as both the permit holder and the trailer meet all the other conditions of this ordinance but such trailer must be removed after seventy (72) hours.
- Sec. 10-33** Notwithstanding any other provision in this Code of Ordinances, this ordinance governing Mobile Food Units and Food Trailers identified in this Article II provides an exception for any of the activities authorized herein.
- Sec.10-34 to 10-49 reserved for future expansion.**

ARTICLE III REGULATION OF SMOKING

Sec. 10-50. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **Bar** means any commercial establishment that derives fifty-one percent (51%) or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premises consumption license issued by the Texas Alcoholic Beverage Commission or a portion of a commercial/food establishment that is physically separated from the rest of the establishment by an impermeable barrier exclusive of appropriate openings for ingress and egress and that portion of the establishment is independently ventilated and that portion of the establishment derives fifty-one percent (51%) or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premises consumption license issued by the Texas Alcoholic Beverage Commission.
- (b) **Director** means the director of the department designated by the City Manager to enforce and administer this article or the director's designated representative.

(c) **Employee** means any person who is employed by any employer from direct or indirect monetary wages, commissions or profit, or is in a position that would lead one to believe that such person is so employed.

(d) **Employer** means any person, partnership, corporation, association or other entity that employs one or more persons.

(e) **Enclosed** means closed in by a roof and solid walls, with or without windows and with appropriate openings for ingress and egress.

(f) **Food establishment** means any operation engaged in the preparation or sale of prepared ready-to-eat food, if such operation accounts for more than fifty-one percent (51%) of annual gross sales receipts. For the purpose of this section a food establishment does not include an outdoor patio or deck which may or may not be covered.

(g) **Governmental entity** means a state, a municipality, county, school district, or appraisal district.

(h) **Health care facility** means any hospital or institution that provides medical or surgical services for patients.

(i) **Independently ventilated** means that the heating, ventilation and air conditioning system for a bar area does not allow for the mixing of air from the bar area to a public area or public place served by the same ventilation system or another ventilation system.

(j) **Public place** means any enclosed area that is open to or is used by the general public, or that is a place of employment and includes, but is not limited to: retail stores, grocery stores, offices, professional, commercial or financial establishments, food establishments, movie theaters, public and private institutions of education, health care facilities, nursing and convalescent homes, residential treatment facilities, buildings owned or occupied by political subdivisions and public restrooms. For the purpose of this article, a public place does not include a private residence, bar, tobacco shop, hotel and motel rooms that are rented to guests, private clubs or outdoors or private offices. Any public places regulated by other statutes or other governmental administrative rules which conflict with or which preempt local regulation are exempt from the provisions hereof to the extent of such conflict or preemption.

(k) **Private club** means any building, premises or portion thereof which is wholly owned or leased from other than a governmental entity by a non-profit corporation organized under Chapter 501 (c)(3) of the United States Internal Revenue Code, as amended.

(l) **Private Office** is an individual's office from which the public is not barred but to which the public goes primarily by invitation or appointment. Such office shall be an office in which there are no employees.

(m) **Movie theater** means any establishment engaged in the business of exhibiting motion pictures to public. The same are regulated hereby even if meeting the definition of private club.

(n) **Outdoors** means any area that is not enclosed.

(o) **Smoke or smoking** means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking material, equipment or device, and the lighting, emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.

(p) **Tobacco** means any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco, which may be utilized for smoking, chewing, inhalation or other means of ingestion or absorption.

(q) **Tobacco shop** means any commercial establishment that derives fifty-one percent (51%) of its annual gross receipts from the sale of tobacco and tobacco accessories.

Sec. 10-51. Smoking Prohibited in Public Places.

Smoking is hereby prohibited in all public places within the city limits of the City of South Padre Island.

It is an affirmative defense to prosecution under this article that the person was smoking in a bar, tobacco shop, a rented hotel or motel room of any kind, private clubs, outdoors, or in a place where these regulations are in conflict with or preempted by other laws.

Sec 10-52. Signs and Receptacles.

A) "Designated Smoking Area" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch (1") in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted at every entrance to every building where smoking is regulated by this Ordinance. Such signs shall state, "No Smoking City Ordinance No. 10-26".

B) Receptacles shall be provided in sufficient numbers and locations so that the same are readily accessible for the extinguishment of smoking materials prior to entry into buildings and other places where smoking is regulated by this Ordinance.

Sec. 10-53. Reporting Violations.

This article does not require the owner, operator, employer, manager or any employee to report a violation of this Article.

Sec. 10-54. Penalties for Violation.

A) Any person, firm, partnership or corporation who violates any provision of this section shall be guilty of a Class "C" Misdemeanor and upon conviction thereof shall be fined an amount not less than Twenty-Five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day that violation is permitted to exist shall constitute a separate offense.

B) It is hereby declared that the culpable mental state required by Chapter 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with, and such offense is declared to be a strict liability offense.

Sec. 10-55. Other Applicable Laws

A) This Article shall not be construed or interpreted to permit smoking where it is otherwise restricted by other applicable laws.

B) This Article shall be and is hereby declared to be cumulative of all other ordinances of the City of South Padre Island, and this Article shall not operate or repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provision, if any, in such other ordinance or ordinances are hereby repealed.

C) All of the regulations provided by this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any City Official or employee charged with the enforcement of this Ordinance, acting for the City of South Padre Island in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

D) Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of South Padre Island in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of South Padre Island.

E) It shall be a violation of this Article for any person to smoke where the owner of the property has posted a "No Smoking" sign even if smoking is not prohibited by this Article."

Chapter 11
OCCUPATIONAL LICENSES, ALCOHOLIC BEVERAGES,
MISCELLANEOUS PERMITS

TAXICABS
ARTICLE I.
GENERAL PROVISIONS

Sec.11-1 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings herein ascribed to them:

Driver. The term "driver" shall be held to include every person in actual charge of the operation of a taxicab, whether as owner or agent, servant or employee of the owner. The driver must hold a license to drive the vehicle issued by the City pursuant to Article VI of this Chapter.

Owner. The term "owner" shall be construed to mean any person, firm corporation, association, partnership or society who has the control, direction, maintenance and the benefit of the collection of revenue derived from the operation of taxicabs on or over the streets or public ways of the City, whether as owner or otherwise, except as "driver" is herein defined.

Taxicab. The term "taxicab" shall mean a chauffeured motor vehicle used to transport persons for hire that typically operates on irregular routes, irregular schedules, and on a call-and-demand basis. The term "taxicab" shall not apply to motor buses operated within the City pursuant to Texas Railroad Commission and/or Interstate Commerce Commission permits, ambulances, special service vehicles or other vehicles as may be defined by this ordinance. In no event shall pickup trucks be permitted to operate as a taxicab within the City.

Limousine. Any vehicle other than one rented without a driver, a taxicab, touring vehicle, shuttle, or publicly franchised bus, used for the transportation of passengers for hire, not upon a fixed schedule or over a fixed route, the charge for which is determined by the length of time for which the vehicle is engaged, the distance traveled, a fixed fee or any combination of such methods of determining such charge.

Touring Vehicle or Shuttle. Any vehicle other than one rented without a driver, or a taxicab, or a limousine, or a publicly franchised bus, or a private bus used for the transportation of passengers for hire for sightseeing or other purposes, other than for funeral services, the charge for which is determined by a length of time for which the vehicle is engaged, the distance traveled, a fixed fee, or any combination of such methods of determining such charge.

Licensee. A person licensed to operate a taxicab within the City limits after fulfilling the requirements of this chapter.

Feasibility standard. The maximum number of taxicabs determined by the City Council that are needed to operate within the City limits to provide necessary public access and convenience to taxicab service.

Sec.11-2 Taxicab license required except for vehicles discharging passengers only.

It shall be unlawful for any person to drive or to operate or to cause to be driven or operated any taxicab upon or over any street in the City, unless there has been obtained for such vehicle, existing in full force and effect, a license duly issued pursuant to this Chapter, except vehicles discharging passengers only within the City limits are not regulated by this Chapter.

Sec.11-3 Taxicabs operating from points outside the City must be licensed to pick up passengers within City limits.

Taxicabs operating from points outside the City limits must be licensed under this Chapter in order to pick up passengers within the City limits.

Sec.11-4 Current holders of taxi license must conform to requirements.

The holders of licenses to operate taxicabs within the City on the date of the passage of the ordinance adopting the revisions to this chapter must conform to the requirements of the Chapter within ninety (90) days subsequent to the date of passage of such ordinance.

Sec.11-5 Identification; advertising prohibited.

- (A) All licensees must register their vehicle color schemes with the Chief of Police. The color scheme of all taxicabs must be uniform and shall be used exclusively by such licensee.
- (B) Every taxicab shall have painted upon both front side doors and upon the rear thereof, in non-washable paint in color contrast to the color of the taxicab, the name of the owner or the trade name under which the owner operates, together with the taxicab permit number.
 - (1) All the lettering required in this section shall be not less than two and one-half (2 1/2") inches in height, and not less than five-sixteen (5/16") inch stroke.
 - (2) Permanently fixed logos may be substituted for lettering of name of owner or the trade name under which the owner operates.
- (C) No advertising pictures, words, or slogans may be added to any taxicab, limousine, touring vehicle or shuttle.

Sec.11-6 Taxicabs to be not greater than eight years of age.

Taxicabs operating within the City limits must not be greater than eight (8) years of age. The age of a taxicab shall be determined by counting from the first day of the year of the year model designated by the manufacturer of the taxicab. [amended by Ord 09-21, 11/18/09]

Sec.11-7 Current annual state vehicle inspection required.

Each taxicab, limousine, touring vehicle or shuttle must have a current annual vehicle inspection certificate as required by the Texas Department of Public Safety.

Sec.11-8 Taxicabs subject to periodic inspection by Chief of Police or his designee.

Each taxicab shall be subject to periodic inspections by the Chief of Police or his designee. Inspections may include, but not limited to compliance with City ordinance requirements, conditions and appearance of units, drivers, equipment and applicable safety requirement.

Sec.11-9 Operators of taxicabs, renewal of license.

All taxicabs must comply with the requirements of such Chapter upon the renewal of their respective licenses.

Sec.11-10 Operators.

No taxicab for which a license has been issued under this Chapter shall be operated by anyone except the licensee thereof or an employee of the licensee that complies with Article VI of this Chapter 11.

Sec.11-11 Use of most direct route.

Any taxicab driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his destination.

Sec.11-12 Passenger's exclusive right; carrying additional passengers.

When a taxicab is engaged, the passenger shall have the exclusive right to the full and free use of the passenger compartment, and it shall be unlawful for the licensee or driver of any taxicab to solicit to carry additional passengers therein, except with the consent and approval of the first passenger. No taxicab shall carry more than five (5) passengers, except the Chief of Police may certify a taxi cab to carry more than five (5) passengers and up to seven (7) passengers if the vehicle is designed to handle more than five (5) passengers. Any taxi cab that carries more than five (5) passengers must be certified to carry the additional passengers and may not carry more passengers than for which it is certified.

Sec.11-13 Stands on streets and sidewalks prohibited.

The use of any street, alley, sidewalk or public thoroughfare within the City as a taxicab stand, or as a place of business for owners or operators of taxicabs to receive calls for service, or from which to dispatch vehicles or as a place for a taxicab stand, or a place to assemble or habitually park vehicles when awaiting calls for service, is prohibited.

Sec.11-14 Soliciting business.

It shall be unlawful for the licensee or driver of any taxicab, limousine, touring vehicle, shuttle or for any other person, to seek or solicit patrons or passengers for any vehicle by word or by sign, directly or indirectly, while driving any such vehicle over, through, or in any public street or public place of the City, or while the same is parked on any public street or alley of the City.

ARTICLE II.

TAXICAB LICENSES; PROCEDURES AND REQUIREMENTS.

Sec.11-15 Written application to Chief of Police.

All applicants for a license to operate taxicabs within the City limits must submit a written application to the Chief of Police or his designee.

Sec.11-16 Applicants must submit to police department investigation.

All applicants for a license to operate said taxicabs within the City limits must submit to a police department investigation of the applicant's driving record and a check of the applicant's criminal record, if any. Such police report shall accompany the application when the completed application is filed with the Chief of Police or his designee.

Sec.11-17 Applicants must submit certificate of intent to insure following requirements of this Chapter.

All applicants for a license to operate taxicabs within the City limits must submit a certificate from an insurance agent licensed in Texas to write policies as required by this Chapter, of intent to insure each vehicle covered by such license according to the requirements of this Chapter upon approval of the application.

Such policy shall contain an endorsement that cancellation of such policy shall not become effective before fifteen (15) days after notice, in writing, to the City of such cancellation.

Sec.11-18 Contents of Application.

Each application for a license to operate taxicabs within the City limits must contain the following information.

- (1) The application number assigned to such application by the Chief of Police or his designee;
- (2) The date of the application;
- (3) If a prior license has been issued under this Article, the license number, date of issuance, and date of expiration;
- (4) The full name, date of birth, place of birth and SSN# of the applicant;
- (5) The current mailing address of the applicant, other than the commercial address of the vehicle owner;
- (6) The residence telephone number of the applicant, and the business telephone number of the applicant, if other than the telephone number of the vehicle owner;
- (7) The Texas Class C or appropriate driver's license number of the applicant;
- (8) The previous address of the applicant for the last five (5) years and the period of time at such address;
- (9) The age, race, height, weight, color of eyes and color of hair of the applicant;
- (10) The proposed name under which the owner is to operate the vehicle or vehicles;
- (11) The proposed location of the vehicle owner's main office, the location of the private property where the vehicles are to be parked while off duty, the location of any on duty taxi stands, and the location of the dispatch office;
- (12) The proposed hours of operation;
- (13) The proposed number of vehicles;
- (14) The color scheme of the vehicles;
- (15) The assigned number of each vehicle to be operated under the license applied for, the license tag numbers of each such vehicle, and the motor vehicle serial number for each such vehicle;
- (16) The previous experience of the applicant in the operation of taxicabs;
- (17) The previous place of employment for the last five (5) years of the applicant and the term of such employment;
- (18) Three (3) character references other than family members or former employers;
- (19) A list of criminal convictions of the applicant, if any, including traffic offenses;
- (20) A list of any physical infirmities, deformities, or physical or mental handicaps;
- (21) A statement of the reasons by the applicant that approval of the application will benefit and serve the community convenience;

- (22) The notarized signature of the applicant acknowledging that the contents of the application are correct.

Sec.11-19 Application to be accompanied by written permission for parking and taxi stands; Police Chief approval of locations.

The application for taxicab license must be accompanied by written permission of property owners where taxicabs of applicant will customarily park on or off duty, and for all taxi stands of applicant, including copies of all written leases, if any, between such property owners and applicant, and such locations must be approved by the City Chief of Police prior to the granting of the license.

Sec.11-20 License Fee

Prior to issuance of the license, the owner or operator must pay to the City a license fee of \$200.00 per taxicab covered by the license.

Sec.11-21 Multiple vehicles on one license when initially issued; addition of other vehicles requires new license.

Multiple vehicles may be included on one license at the time of initial issue, but additional vehicles may not be added to such license. Additional vehicles require issuance of a new license and compliance with the procedures for application and issuance of same as required by this Chapter.

Sec.11-22 Replacement of licensed vehicle.

In the event a licensed vehicle under this Article is sold, wrecked or destroyed, the owner thereof shall have the right to replace such vehicle with another, written application to the inspector of vehicles and surrender of the license for the vehicle so sold, wrecked or destroyed, a license for the replacement vehicle shall be issued unless a vehicle has been duly substituted under such license and a transfer fee of \$100.00 per substituted vehicle has been paid.

Sec.11-23 License transferable; vehicle transfer fee.

Any license issued pursuant to this Chapter may be transferred to any other person upon the licensee filing an application and meeting all the requirements of this Chapter and paying a transfer fee of \$500. No license may be used for operating any vehicle other than the vehicle for which said license is issued unless it has been duly substituted under such license and a transfer fee of \$50.00 per substituted vehicle has been paid.

Sec.11-24 License renewal procedure; fee.

Taxicab licenses must be renewed every year and the applicant shall comply with all of the requirements of this Chapter for applications for such licenses, except that the vehicles covered by the existing license of an applicant shall not be considered as additional vehicles for purposes of the current feasibility standard. A renewal fee of \$100.00 shall be paid prior to renewal of a license.

Sec.11-25 Revocation for violation of law or failure to comply; procedure.

Should a licensee be arrested or indicted for violating any provision of this Code or any of the laws of the State of Texas, including, but not limited to, laws regulating taxicabs, carriers, or motor vehicles, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee or if licensee should fail to be in compliance with this ordinance or any requirement hereof, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee. If the licensee protests the receipt of notice thereof, the City Council shall, within of ten (10) days after notice to licensee, conduct a hearing and thereupon sustain, modify or reverse the decision of the Chief of Police and notify the licensee of its findings.

Sec.11-26 Taxicab driver's license requirements apply to licensee.

Applicants for a taxicab license under this Chapter must also personally comply with the requirements for and be issued an appropriate driver's license under this Chapter if they drive the vehicle.

ARTICLE III.

PROCEDURE SUBSEQUENT TO FILING OF APPLICATION.

Sec.11-27 Current Feasibility Standard.

The current feasibility standard for taxicabs to be granted licenses pursuant to this Article shall be twenty-four (24).

Sec.11-28 Approval by Chief of Police if ordinance feasibility standard not fulfilled.

If the current feasibility standard as stated in this Article is not fulfilled, the application may be approved by the Chief of Police or his designee upon compliance by the applicant with the requirements of this Chapter. If the current feasibility standard as stated in this Article is fulfilled, the Chief of Police shall deny the application.

Sec.11-29 Chief of Police to notify City Council of granting or denial of license.

Upon the issuance or denial of any license, the Chief of Police shall notify the City Council thereof in writing within five (5) days.

Sec.11-30 Appeal from denial of application by Chief of Police; notice hearing; if no appeal, a decision of Chief of Police final.

If the application is denied by the Chief of Police or his designee, the applicant may appeal to the City Council. Such appeal may be effected by delivering written notice thereof to the City Manager within fourteen (14) days after the denial of the application. Upon receipt of such written notice of appeal, the City Manager shall set a date for hearing thereon before the City Council not less than thirty (30) days from date of receipt of the notice of appeal and notify the applicant in writing thereof. If no notice of appeal is filed by the applicant with the City Manager within fourteen (14) days after denial of the application, such denial shall be final, and no subsequent application may be made for a period of ninety (90) days from such date.

Sec.11-31 Public hearing to be set on application if feasibility standard fulfilled.

If, upon receipt of an application for a taxicab license, the feasibility standard set in this Chapter is filled, then upon the written request of the applicant, the City Manager shall, within five (5) days of receipt of such written request, schedule a public hearing before the City Council on the public necessity and convenience for granting of the application and immediately notify such applicant thereof. The hearing shall be held within thirty (30) days of the City Manager's receipt of the written request of the applicant therefor.

Sec.11-32 Applicant responsible for paying cost of notice of hearing; contents of notice; notice to current license holders.

Upon notice to the applicant for a taxicab license that a public hearing on the public necessity and convenience before the City Council has been scheduled by the City Manager, the City Manager shall cause notice thereof to be published once in a local newspaper, and the publication fee therefor shall be paid by the applicant. Such notice shall state that the applicant, the kind and number of vehicles proposed to be used, the ownership of same, and the specific time and place of the public hearing. Such publication shall constitute notice to all holders of existing taxicab licenses that a public hearing will be held by the City Council at a public place in the City as designated in such notice.

Sec.11-33 Time of publication of notice.

The notice of public hearing must be published in a local newspaper not less than five (5) nor more than fifteen (15) days before the date set for the public hearing.

Sec.11-34 Public Hearing on necessity and convenience to be conducted by City Council; applicant to be present or represented by authorized representative with written authority.

The public hearing on public necessity and convenience shall be conducted by the City Council. The applicant shall appear in person or by an authorized representative who, if the applicant is not present, must submit a written, notarized authorization from the applicant granting such representative authority to represent the applicant at the hearing.

Sec.11-35 Matters to be considered at hearing on public necessity and convenience.

The matters to be considered by the City Council at the hearing on public necessity and convenience are as follows:

- (A) The specific reasons why the feasibility standard should be amended and how the public convenience and necessity would benefit from the proposed service of the applicant. Written statements from interested or qualified persons not present at the hearing may be introduced in support of the application;
- (B) Protests or objections by interested persons shall be considered in the same manner as in subsection (A) hereof;

- (C) Pertinent information from the police department concerning the records of the applicant; information from the building department regarding proposed locations for taxi stands; zoning restrictions, and any other pertinent information from any municipal department or from the Chief of Police or his designee.

Sec.11-36 Criteria for determination of public convenience.

In determining whether the public convenience and necessity require the licensing of taxicabs for which application may be made, the City Council shall take into consideration whether the demands for public convenience and necessity require such proposed or such additional taxicab service within the City; the financial responsibility of the scheme to be used by the applicant; the increased traffic congestion on the streets of the City that may result, whether the safe use of the public streets of the City by the public, both vehicular and pedestrian, will be unduly endangered by the granting of such additional license; and such other relevant facts as the Board may deem advisable or necessary, which may determine the public necessity and convenience.

Sec.11-37 Burden of proof upon applicant; license holders and interested citizens may protest issuance of license.

The burden of proof at the public hearing on public convenience and necessity shall be upon the applicant to establish by clear, cogent, and convincing evidence that the public necessity and convenience require such operation of taxicab or taxicabs for which application has been made. All holders of taxicab licenses and any other citizen shall be entitled to appear at such hearing to protest the granting of the application.

Sec.11-38 City Council to make final decision.

The City Council, upon consideration of the matters brought forth at the public hearing on public convenience and necessity shall, at the next regular meeting of the City Council subsequent to the date of the public hearing on the application for taxicab license, approve or deny the application. If the application is granted, the Board shall amend this Chapter accordingly.

ARTICLE IV.

RATE ZONES, LOG BOOK REQUIREMENTS, PROCEDURE FOR CHANGE.

Sec.11-39 Rate Zones.

The following rate zones shall apply for taxicabs licensed under this Chapter:

- (A) \$4.00 maximum or \$2.00 per person maximum, whichever is greater, on trips anywhere on South Padre Island, such trips not restricted to the City limits.
- (B) \$10.00 maximum for trips from South Padre Island to anywhere in Port Isabel.
- (C) \$15.00 maximum for trips from South Padre Island to anywhere in Laguna Heights
- (D) \$18.00 maximum for trips from South Padre Island to anywhere in Laguna Vista
- (E) \$55.00 maximum from South Padre Island to Harlingen or Harlingen airport.
- (F) \$40.00 maximum to Brownsville airport, plus \$5 for drop off at the Mexico Border.
- (G) \$2.00 per 5 minutes for waiting time.

Sec.11-40 Rates subject to appeal.

The rates set forth in this Article may be appealed, upon the request of a licensee. The appeal process shall proceed in the same manner as set forth in this Chapter for appeal of the denial of a taxicab license, with a public hearing before the City Council.

Sec.11-41 Rate schedules to be permanently affixed in taxicab.

The current rate schedule in effect as per this Article shall be posted in each taxicab in plain view, permanently affixed, illuminated between dusk and dawn, with the identification number of the driver on duty and with the current telephone number of the City department or official designated for taxicab customers to call to report rate discrepancies.

Sec.11-42 Cab logbook required, subject to City audit.

Each taxicab must maintain a current logbook which shall be kept in the taxicab at all times showing the dates of operation, the rates charged to each destination, and the driver name and number for each period of operation. The logbook may be audited at any time by an appropriate City official to verify compliance with the rate zones.

**ARTICLE V.
INSURANCE REQUIREMENTS.**

Sec.11-43 Liability insurance required of all taxicabs; amounts and coverage's.

Prior to the issuance of a license pursuant to this Chapter or before any renewal of such license, the owner or operator applying for such license shall file with the Chief of Police, and thereafter keep in full force and effect, a liability policy in a form approved by the State Board of Insurance Commissioners, issued by an insurance company duly authorized to transact liability insurance in the State of Texas, covering bodily injuries and injury to or destruction of property resulting from the operation of the taxicab or taxicabs of such owner or operator, and the amount of coverage of such liability policy shall be not less than the following amounts and coverage's:

- (A) The minimum amount of liability insurance of any taxicab licensed under this Chapter shall never be less than the amount established by the statutes of the State of Texas under the Texas Safety Responsibility Act or amendment thereto.
- (B) The insurance coverage hereinabove set forth shall not be exhaustible by first recovery but subject to successive recoveries for as long as the insurance is in effect.
- (C) The public liability insurance required by this Article shall be for the protection of the passengers of the insured taxicab and for the public, but shall not cover personal injuries sustained by the servants, agents or employees of the person filing the insurance.

Sec.11-44 Certificate of insurance premium paid for one year required prior to issuance of license.

Prior to issuance of a license under this Chapter, the licensee shall provide the Chief of Police with an insurance company binder showing insurance premiums paid for the insurance required by this Chapter for a full twelve (12) month period in which the taxicabs covered by the licensee will be operating within the City limits.

Sec.11-45 Chief of Police to be notified upon cancellation or lapse of insurance; vehicles not to operate without insurance.

In the event the liability insurance of a licensee as required by this Chapter lapses or is canceled, the Chief of Police shall be notified (15) fifteen days prior to cancellation by the licensee and it shall be unlawful for any taxicab to operate within the City limits without the insurance as required by this Chapter in full force and effect.

**ARTICLE VI.
DRIVER REQUIREMENTS, LICENSING.**

Sec.11-46 Drivers of taxicabs must have Class C or appropriate driver's license.

Any person driving a taxicab covered by this Chapter within the City limits must have a current valid Texas Class C or appropriate driver's license and a license issued by the City pursuant to this Article to operate said vehicle.

Sec.11-47 Application for taxicab driver's license; procedure.

The application for a City taxicab driver's license must contain the following information:

- (A) The name, date of birth, social security number, place of birth, home and business address (no P.O. Box numbers), race, height, weight, color of eyes and hair, Employer's name and address, list of all arrest and convictions including traffic offenses, list of all vehicle accidents applicant was involved in during the past five years, list all states that have ever issued a drivers license to applicant, home and business telephone numbers, and physical description of the applicant;
- (B) The Texas Class C or appropriate driver's license number of the applicant;
- (C) The thumb print conviction record of the applicant;
- (D) Three (3) character references excluding members of the applicant's family or former employers;
- (E) Any other pertinent information as required by the City Chief of Police;
- (F) Two (2) recent photographs of the applicant, one for use upon the applicant's identification card and one to be retained in the police department file;
- (G) A license fee per Sec.2-75 must accompany the application.

Sec.11-48 Taxicab driver's license to be issued for a one year period. Display of license required.

The taxicab driver's license issued pursuant to this Chapter shall be issued for a period of one year, after which it must be renewed by the City. If any information required by Sec 11-47 changes during the license period the license holder must report the same to the City within ten (10) days and any change can be cause for license revocation. The license must be displayed at all times when vehicle is in operation so that passenger may read the face of the license while traveling.

Sec.11-49 Renewal of Taxicab license; procedure.

Within thirty (30) days prior to the expiration date of the taxicab license, the holder thereof must submit an application to the Chief of Police or his designee for the issuance of a new license, and such application must conform to the requirements of this Article.

Sec.11-50 Denial of taxicab license; appeal procedure.

The Chief of Police may deny an application for a license to drive a taxicab license on the basis of failure of the applicant to fulfill the requirements of this Chapter or the City police department has determined that the applicant has been convicted of a crime or that the driving record of the applicant is unsatisfactory. Upon receipt of notice of the denial of such application, the applicant may request a hearing before the City Council, and the City Manager, upon the receipt of written notice from the applicant, shall set such hearing for the next regular meeting of the Board.

Sec.11-50.1 Revocation of drivers license; appeal procedure.

Should the holder of a drivers license issued by the City pursuant to this Chapter of Code of Ordinances be arrested or indicted for violating any provision of this Code or any of the laws of the State of Texas, including, but not limited to, laws regulating taxicabs, carriers, or motor vehicles, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee or if licensee should fail to be in compliance with this ordinance or any requirement hereof, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee. If the licensee protests with in five (5) days after the receipt of notice thereof, the City Council shall, within of ten (10) days after receipt of notice of protest from licensee, conduct a hearing and thereupon sustain, modify or reverse the decision of the Chief of Police.

ARTICLE VII

NON-MOTORIZED VEHICLES FOR HIRE.

Sec.11-51 Non-motorized vehicles to be licensed; requirements.

Any owner or operator of a non-motorized vehicle, including horse-drawn carriage, for hire which is operated by a driver shall obtain a license therefor from the City in the same manner and meeting the same requirements, including but not limited to the maintenance of liability insurance, as a taxicab license, although no feasibility standard shall apply. The drivers thereof must have only a current valid Class C Texas driver's license.

Sec.11-52 Special Regulations for Horse-Drawn Carriages.

Any permit issued pursuant to this Chapter for the use of horse-drawn carriages as a means of conveyance shall comply with all regulations promulgated by the City Manager or his designated representative, relating to the following:

- (a) Limitations on the specific streets which may be utilized by horse-drawn carriages and the hours of operations allowed.
- (b) Safety requirements pertaining to reflectors, warning devices and other safety equipment used on the vehicles, and the types and design of wheels and horse shoes which may be utilized.
- (c) Sanitation procedures to insure the cleanliness of streets and public ways and the proper disposal of waste.
- (d) Health regulations safeguarding the care, feeding and watering of the horses or other draft animals employed by the operator.
- (e) Additional insurance requirements supplementing the minimum limits for automobile and general liability insurance required for limousine and sightseeing operations generally.

- (f) Any other rules, regulations or procedures which the City Manager, or his designated representative, deems necessary to maintain adequate safeguards for the operation of horse-drawn carriages on the public streets not inconsistent with this section.
- (g) The operator of a horse-drawn carriage shall file with the Office of the City Manager a Schedule of Fees that will be charged for the hiring of a horse-drawn carriage and the operator shall abide by such Schedule of Fees. The operator may change the Schedule of Fees by filing a new Schedule of Fees with the City Manager's Office.

Sec.11-53 Horse-Drawn Carriages. No Violation of Section 3-3.

Any operator of a horse-drawn carriage holding a license from the City issued pursuant to this Chapter shall be deemed not to be a violation of Section 3-3 of this Code of Ordinances.

Secs. 11-54 through 11-74 Reserved.

[Ordinance No. 137, 4-19-89, enacted Articles I-VII, and re-numbered Article VIII (Article VIII was re-numbered by Editor of this Code)]

ARTICLE VIII.

ALCOHOLIC BEVERAGES, MISCELLANEOUS PERMITS

Sec.11-75 Fee for alcoholic beverage permit.

Any person or corporation seeking a permit from the Texas Alcoholic Beverage Commission shall pay to the City a fee equal to one-half of the State fee for said permit, except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining, buffet, or club cars, and Class B Winery Permits, and except as to Mixed Beverage Permits during the first, second and third years of their existence. (Ord. No. 15, 12-5-73)

Sec.11-76 Business hours for alcoholic beverage permit holders.

All holders of appropriate licenses and permits as issued by the Texas Alcoholic Beverage Commission may maintain their businesses open during the hours prescribed by State law for counties having a population of 300,00 or more, and it is specifically provided that late-hour permits are permissible within the corporate limits of the City. (Ord. No. 15, 12-5-73)

Sec.11-77 Official forms--City Secretary to certify and execute.

The City Secretary is authorized to certify and execute any forms required by the Texas Alcoholic Beverage Commission for the purposes of certifying that the sale of alcoholic beverages are allowed within the corporate limits of the City. (Ord. No. 15, 12-5-73)

Sec. 11-78 Sales Near School, Church, or Hospital Prohibited

- (A) Locational Requirements: The sale of Alcohol is hereby prohibited by any dealer whose place of business is located within:
 - (1) Three Hundred (300) feet of a church, public school, or public hospital; or
 - (2) One Thousand (1,000) feet of a public school, if the City Council receives a request from the Board of Trustees of the school district under Section 38.007 of the Texas Education Code.
- (B) Measurements, How Calculated: The measurement of the place of business where alcohol is sold and a church or public hospital shall be along the property lines of the street fronts, and from front door to front door, and in a direct line across intersections. The measurement of the distance between the place of business where alcohol is sold and a public school shall be in direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.
- (C) Exemptions: Subsection (A)(2) does not apply to the holder of:

- (1) A retail on-premises consumption permit or license if less than fifty (50) percent of the gross receipts for the premises is from the sale or service of alcoholic beverages.
- (2) A retail off-premises consumption permit or license if less than fifty (50) percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages.
- (3) A wholesaler's, distributor's, brewer's, distiller's, and rectifier's winery, wine bottler's, or manufacturer's permit or license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102 of the Texas Alcoholic Beverage Code.

Sec.11-79 Sandblasting prohibited without permit.

All outside sandblasting within the City of any type or nature is hereby prohibited, unless a permit therefor is obtained from the City. (Ord. No. 103, 11-17-82)

Sec.11-80 Building Department to issue sandblasting permit.

The Building Department of the City, by and through its Building Inspector, may issue a special permit to allow sandblasting when the applicant has demonstrated that he/it will conduct such sandblasting in a manner as not to create any airborne pollutants and with such any and other additional safeguards as may be imposed by the Building Inspector; and any sandblasting conducted thereafter must be done in strict compliance with said permit, and said permit may be terminated at any time that it is determined that the sandblasting being conducted by the applicant is in fact injurious or hazardous to the surrounding properties or people. (Ord. No. 103, 11-17-82) **Reserved Sec 11-81 to Sec 11-99**

ARTICLE IX CUSTOM GARMENT FABRICATION

Sec.11-100 Definitions.

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Custom Garment Fabrication Business: A business that sells custom fabricated garments to the general public at retail.

Garment: Any item of wearing apparel.

Custom Garment Fabrication Service: The act of altering a garment on site at a retail business by the application of custom garment material through a heat transfer, screen painting or other similar process.

Custom Garment Fabrication Material: Adornments, including but not limited to, lettering, designs, decals, appliques, artwork or similar artistic or commercial designs.

Custom Fabricated Garment: Any garment that is altered, at the request of a customer, by custom garment fabrication service, whether or not such garment is provided by the custom garment fabrication business or the customer.

Base Retail Price: The price for which a garment may be purchased without custom garment fabrication service.

Full Purchase Price: The maximum price for which a garment may be sold, which shall be inclusive of all charges, services, taxes (if any), and fees, including but not limited to, any charge for custom garment fabrication service or custom garment fabrication materials.

Point of Sale: The location in a custom garment fabrication store at which the sale of custom fabricated garments is consummated by payment of the purchase price therefor.

Sec.11-101 Application for License

- (A) Any person, firm or corporation desiring to engage in the custom garment fabrication business shall apply to the City Secretary of the City of South Padre Island, in writing, on

forms supplied by the City of South Padre Island for said purpose, which form shall be duly verified by the applicant. The application shall set forth:

- (1) Name and address of applicant.
 - (2) Local and permanent addresses and telephone numbers of applicant.
 - (3) Name, local address and telephone number or manager of business if different from applicant.
 - (4) If applicant is a corporation, the name and address of its registered agent.
 - (5) The name and address of a person residing in, or employed in the City of South Padre Island designated by applicant to accept service of process of any complaint arising out of an alleged violation of the provisions of this Ordinance. Said designee may be applicant.
 - (6) Copy of the Texas State Sales Tax Certificate.
 - (7) Federal Employer Identification Number, if applicant is a corporation, partnership or firm; or Social Security Number if a proprietorship.
 - (8) A certification that applicant is a citizen of the United States or, if not, is the holder of documentation authorizing the alien to be employed in the United States.
 - (9) If applicant is a partnership, firm or corporation, all information required by the application shall apply not only to the partnership, firm or corporation, but also to each officer, director or holder of ten percent (10%) of the issued stock (if a corporation), and to all members of a partnership or firm.
- (B) Each custom garment fabrication business license issued by the City Secretary of the City of South Padre Island shall contain a registration number and no such license shall be transferable.
- (C) A fee of One Hundred Dollars (\$100.00) shall be charged by the City of South Padre Island for the issuance of such license. Each license shall constitute a separate fee.

Sec.11-102 Expiration and Renewal.

Licenses issued pursuant to the provision of this Ordinance shall be good only for the period of issuance and shall be effective only from the date of issue each year. No license will be issued for a subsequent year without again complying with the provisions of this Ordinance.

Sec.11-103 Regulations.

- (A) It shall be unlawful to engage in the custom garment fabrication business in the City of South Padre Island without first obtaining a license therefor pursuant to the provisions of this Ordinance.
- (B) No person, partnership, firm or corporation engaged in the custom garment fabrication business, whether as an owner or an employee therein, shall sell any garment unless:
- (1) The garment is marked with its base retail price.
 - (2) The price of the garment is clearly marked in ink or "marker". No prices shall be marked in pencil. The marked price must reflect the price of the garment as it then exists, whether or not the garment may have been previously modified by custom garment fabrication services.
- (C) No salesperson may charge, nor may any person, partnership, firm or corporation engaged in the custom garment fabrication business authorize a salesperson, to charge the purchaser of a custom fabricated garment any amount in excess of the amount shown on posted notice of prices described in (G) below.
- (D) Every person, partnership, firm or corporation engaged in the custom garment fabrication business shall provide each buyer of a custom fabricated garment with a cash register or other receipt for any purchases of custom fabricated garments, showing the price of all custom fabricated garments purchased and the amount of sales tax, if any, charged in conjunction therewith.
- (E) Every person, partnership, firm or corporation engaged in the custom garment fabrication business must have a copy of this Ordinance at each point of sale in the store and make it available to any person to read, upon reasonable request.

- (F) Each person, partnership, firm or corporation engaged in the custom garment fabrication business must post at each point of sale a notice, to be provided by the City of South Padre Island, which sets forth the following information:
- (1) This business has been licensed by the City of South Padre Island to sell custom fabricated garments.
 - (2) The license number is _____.
 - (3) Each customer must also receive a cash register or other receipt for any purchase of a custom fabricated garment from this store when you pay for the custom fabricated garment.
 - (4) A copy of the City of South Padre Island Ordinance regulating the sale of custom fabricated garments is available to customers to read at any cash register or other point of sale in this store.
 - (5) The failure of a merchant to comply with any of these provisions should be reported to the City of South Padre Island Police Department located at 4501 Padre Boulevard, South Padre Island, Texas.
- (G) Every owner of a custom garment fabrication business shall post in plain view of the public a clearly lettered sign, at least 8 1/2 inches by 11 inches (8 1/2" X 11"), with lettering at least two inches (2") high, at each point of sale in its store, which sign itemizes the unit price for each type of custom garment fabrication material that can be purchased in the store, whether separately or as part of the preparation of a custom fabricated garment, as well as the price of each type of custom garment fabrication service which is available in the store, whether it is obtained separately or as part of the preparation of a custom fabricated garment. All items for which Texas State Sales Tax is charged shall be designated by a clearly visible identifying mark at least one-half inch (1/2") high adjacent to the price for such item referring to a legend at the bottom of the posting, that reads in one-inch (1") high letters, the phrase "TAXABLE ITEM".

Sec.11-104. Suspension or Revocation of License.

In addition to being subject to the penalties provided by this Ordinance, any license issued under this Ordinance may be revoked or suspended by the City Council of the City of South Padre Island for any mis-statement in any application or for any violation of this Ordinance. No license shall be revoked or suspended until the licensee has been afforded a hearing before the City Council of the City of South Padre Island. Notice of the filing of a complaint which seeks to suspend or revoke any license issued under this Ordinance shall be served on the person designated to receive service in Section 11-101(A)(5) of this Ordinance, which notice will establish a date for a hearing to be held not more than ten (10) days from the date of such notice, at which time the licensee shall have the right to be represented by counsel, call witnesses, cross-examine witnesses produced in support of the complaint, as well as such other rights necessary in order to insure due process. Should any license be revoked or suspended, no part of the license fee shall be returned.

Sec.11-105. Recordkeeping and Access.

All records or sales slips required by this Article shall be maintained by the Licensee for at least Twelve (12) months from the date of the creation of such record or receipt. Any official from the City of South Padre Island has the right of access to these records and receipts and the same shall be made available to said official on demand during normal business hours

[Ord. No. 132 July 6, 1988, enacted Article IX (Custom Garment Fabrication) of Chapter 11 and the sections were re-numbered by the Code Editor; Ord No. 00-05, Mar 1, 2000 amended Article IX] **Sec.11-106 to 11-109 reserved.**

Article X

Amusement Redemption Machine Establishments.

Sec.11-110 DEFINITIONS

For the purpose of this Article X the following words and terms as used herein are defined to mean the following:

1. Amusement Redemption Machine means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

2. Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment-- Any business location that has more than three (3) Amusement Redemption Machines is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an Amusement Redemption Machine Establishment and subject to this Article X and all the rules and regulations of the City.

3. Premises means any premise requiring a permit under the terms of this section and shall include the grounds as well as all the buildings and vehicles as well as any adjacent premises either directly or indirectly under the control of the Permittee.

4. Permit means a permit to operate an Amusement Redemption Machine Establishment.

5. Permittee means a person in whose name a permit to operate a Amusement Redemption Machine Premise has been issued.

6. Person means an individual, partnership, corporation, association or other legal entity.

7. Private Club means an association of persons for the promotion of some common object which operates not for a profit a place for the accommodation of its members and guests only.

8. Public facility means any property owned and/or operated by the City of South Padre Island or any governmental entity.

Sec.11-111 PERMIT REQUIRED

1. A person commits an offense if they operate a Amusement Redemption Machine Establishment without a permit.

2. An application for a permit must be made on a form provided by the City. The applicant must be qualified according to the provisions of this section.

3. A person who wishes to operate Amusement Redemption Machine Establishment must sign the application for a permit as applicant. If a person who wishes to operate a Amusement Redemption Machine Establishment is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a permit as an applicant. Each applicant will be considered a permittee.

4. It is a defense to prosecution under this section if the alleged activity is conducted at:

- a. a private residence from which the general public is excluded;
- b. a place owned by the federal, state or local government;
- c. a public or private elementary school, secondary school, college or university; or
- d. a place owned by a religious organization.

Sec.11-112 LOCATION OF ESTABLISHMENTS

A person commits an offense if he operates or causes to be operated a Amusement Redemption Machine Establishment within 300 feet of: 1. a church; 2. school; or 3. hospital.

Sec.11-113 ISSUANCE OF PERMIT

The City Secretary shall approve issuance of a permit 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 or an employee is 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 or imposed upon real and/or personal property;
- 3. An applicant, an applicant's spouse or an employee has been convicted of a violation of a provision of this Article within a period of two years preceding the application;
- 4. Any fee required by this section has not been paid;
- 5. An applicant, an applicant's spouse or an employee has been convicted of a felony as defined in section 1.07 of the Texas Penal Code within a period of five years preceding the application;

6. An applicant, an applicant's spouse or an employee has been convicted any of the gambling offenses as described in Chapter 47 of the Texas Penal Code within a period of five years preceding the application.

7. An applicant, an applicant's spouse or an employee has been convicted any of the following offenses as described in Chapter 21 of the Texas Penal Code within a period of five years preceding the application:

a. public lewdness; b. indecent exposure; or c. indecency with a child.

8. The fact that a conviction is being appealed has no effect on the disqualification of the applicant, the applicant's spouse or an employee under this section.

9. The City Secretary, upon approving issuance of a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment permit shall send the applicant, by certified mail, return receipt requested, written notice of that action and state where the applicant must pay the permit fee and obtain the permit. The City Secretary's approval of the issuance of a permit does not authorize the applicant to operate a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment until the applicant has paid all fees required by this Article X and obtained possession of the permit.

Sec.11-114 FEES

1. Amusement Redemption Machine Premise or Establishment License fee as follows:

- (i) 3 to 5 machines on premise a \$1,000.00 fee;
- (ii) 6 to 10 machines on premise a \$2,500.00 fee;
- (iii) 10 or more machines on premise a \$5,000.00 fee.

2. In addition to the fees required by this section, an applicant shall, at the time of making application, pay a nonrefundable application fee of \$500.00 for the City to conduct an inspection of the proposed premises together with the surrounding area to insure compliance with all applicable health and safety codes and ordinances and to insure compliance with the locational restrictions set forth Sec.11-112 of this Article.

Sec.11-115 NO ALCOHOL ON PREMISES

No Amusement Redemption Machine Premise or Establishment, as that term is herein defined, shall serve alcoholic beverages of any nature, nor shall alcoholic beverages be consumed upon the premises.

Sec.11-116 INSPECTION

1. Representatives of the police, fire, code enforcement and any other appropriate governmental departments may inspect the Amusement Redemption Machine premises for the purpose of insuring compliance with the law, at any time it is open for business or occupied.

2. A person who operates a Amusement Redemption Machine establishment or a person designated as the Amusement Redemption Machine establishment supervisor commits an offense if he refuses to permit a lawful inspection of the premises of a Amusement Redemption Machine establishment by a representative of the police department, the fire department, code enforcement, building inspections or planning department at any time it is open for business or occupied.

3. The front door of the Amusement Redemption Machine premises may not be locked or access restricted when the premise is open for business or has occupants.

Sec.11-117 Amusement Redemption Machine Supervisor

1. Upon the approval of a permit by the City Secretary, a person who operates a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment must designate a person as a Amusement Redemption Machine establishment supervisor. The designation must include the individual's full name, address, telephone number, drivers license number, and a photo ID.

2. If, at any time during the period of the permit, a person who operates a Amusement Redemption Machine establishment wishes to designate a different individual as the Amusement Redemption Machine establishment supervisor, it will be necessary for the designation procedure described in this section to be followed.

3. A person designated as the Amusement Redemption Machine supervisor must remain on the premises of the Amusement Redemption Machine establishment all times during operating hours to insure that all activities are conducted in a lawful manner.

Sec.11-118. PERSONS UNDER 18 PROHIBITED; SIGN TO BE DISPLAYED

1. No person under the age of 18 years shall be permitted on the premises of any Amusement Redemption Machine establishment unless accompanied by a parent or adult guardian.

2. Any person holding a Amusement Redemption Machine permit shall prominently display on the premises a sign reading as follows:

“PLAY BY MINORS UNDER EIGHTEEN YEARS OF AGE NOT ALLOWED
UNLESS ACCOMPANIED BY PARENT OR ADULT GUARDIAN”.

3. A person who operates Amusement Redemption Machine establishment or a person designated as a Amusement Redemption Machine establishment supervisor commits an offense if he knowingly permits a person under 18 years of age to enter or remain on the premises unless accompanied by a parent or adult guardian.

Sec.11-119 EXPIRATION OF ESTABLISHMENT PERMIT

1. A permit for a Amusement Redemption Machine establishment shall expires one year from the date of issuance. A permit may be renewed only by making application as provided in Sec.11-111 and Sec.11-112. Application for renewal should be made at least 30 days before the expiration date. When made less than 30 days before the expiration date, the expiration of the permit will not be affected by the pendency of the application.

2. When the City Secretary denies renewal of a permit, the applicant may not be issued a Amusement Redemption Machine establishment permit for one year from the date the denial becomes final. If, subsequent to denial, the City Secretary finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the denial became final.

Sec.11-120 RESERVED

Sec.11-121 REVOCATION

1. The City Secretary and/or the Chief of Police shall, subject to the provisions of Sec.11-122, revoke a permit if a permittee or an employee of a permittee has:

- a. violated any provision of this Article X;
- b. knowingly permitted gambling by any person on the premises.

2. The City Secretary and or the Chief of Police shall, subject to the provisions of Sec.11-122, revoke a permit if the City Secretary and/or the Chief of Police determines that one or more of the following is true:

- a. A permittee has given false or misleading information in the material submitted to the Chief of Police and/or City Secretary during the application process;
- b. A permittee or employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- c. a permittee or employee has knowingly allowed prostitution on the premises;
- d. a permittee is convicted of or is under indictment for any felony offense or any misdemeanor offense listed in Sec.11-113 of this Article.

3. The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

4. When the City Secretary and/or the Chief of Police revokes a permit, the revocation will continue for one year after the revocation becomes final. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the revocation became final.

Sec.11-122 APPEALS

If the City Secretary denies the issuance or renewal of a permit or suspends or revokes a permit, the City Secretary shall send to the applicant or permittee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. The aggrieved party may appeal the decision of the City Secretary and/or the Chief of Police to the City Council. The filing of an appeal and the posting of a cash bond in the amount of \$500 shall stay the action of the City Secretary and/or the Chief of Police in suspending or revoking a permit until the City Council makes a final decision. The City Council shall hear the appeal within 60 days of filing. If, after a hearing, the City Council denies the appeal or in the event the aggrieved party fails to fully prosecute the requested appeal to a conclusion, the \$500 cash bond previously posted shall be forfeited as costs and remainder of any suspension or revocation shall be fully implemented. The decision of the City Council shall be final.

Sec.11-123 TRANSFER OR ASSIGNMENT OF PERMIT

A permittee shall not transfer or assign a permit to another nor shall a permittee operate a Amusement Redemption Machine establishment under the authority of a permit at any place other than the address designated in the application.

Sec.11-124 EXISTING AMUSEMENT REDEMPTION MACHINE PREMISE

Any existing business or premise that meets the definition of Amusement Redemption Machine Premise or establishment must comply with all the provisions of this Article X within sixty (60) days of the enactment of this Ordinance and Article X including, but not limited to, obtaining a permit. Failure to obtain a permit within sixty (60) days and continue operations will be a violation of this Article.

Sec.11-125 CIVIL ENFORCEMENT

In addition to the penalties provided by Section 21-1 of the Code of Ordinances It is hereby declared that the City will be irreparably damaged by the violation of this Article X by any person or entity; the City is, therefore, hereby empowered to bring suit to enjoin the violation of this Article X and collect a civil penalty in the sum not to exceed Two Thousand Dollars (\$2,000) for each day that this Article X is violated. Suit to enjoin the violation of this Article X and collect the civil penalty hereby imposed may be brought in any court of competent jurisdiction. [Ord 09-11]

**Article XI
WRECKERS**

Sec. 11-200 DEFINITIONS

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

Auction: means the sale of motor vehicles not claimed by the lawful owners and reported to the South Padre Island Police Department as abandoned.

Abandoned vehicle: is defined as set forth in Chapter 683 of the Texas Transportation Code, as may be amended.

Chief of police: means the South Padre Island Police Chief.

City limits: The city of South Padre Island's city limits

Designated person: means a person designated by the chief of police.

Drop fee: means the price to be charged in lieu of a towing fee where, after a wrecker has been dispatched to, or is at the scene of a tow, and has physically attached or connected the vehicle to the auto wrecker, and the vehicle has not been towed from the property, and when the vehicle owner requests its release.

Inspections: means the inspection of insurance certificates and permits by officers of the South Padre Island Police Department for wreckers who conduct services within the city limits of South Padre Island. The designated officer or person in charge of overseeing the wrecker rotation list can also, upon request check wrecker bill invoices at the vehicle storage facility.

Motor vehicle or vehicle: means a vehicle for which the issuance of a certificate of title is required under Chapter 501, of the Texas Transportation Code; or any other device designed to be self-propelled or transported on a public highway.

Owner of a vehicle: means a person named as in the certificate of title issued for the vehicle under Chapter 501, of the Texas Transportation Code, in whose name the vehicle is registered under Chapter 502, of the Texas Transportation Code, or a member of the person's immediate family, or who holds the vehicle through a lease agreement.

Twenty-four hour wrecker service: means that in order to be categorized as a 24-hour wrecker service, the permit holder must have two telephone lines or a telephone capable of receiving two lines listed with the city which can be answered 24 hours, seven days a week. The wrecker company must be able to immediately advise the police department of the availability of a wrecker. The permit holder must have two-way communications between the wreckers and the wrecker service office.

Vehicle storage facility: means a garage, parking lot, or any facility owned or operated by a person other than a governmental entity for storing or parking ten or more vehicles, a year, as set forth in the Texas Occupation Code § 2303.002(8), the Vehicle Storage Facility Act, or the successor statute/code provisions.

Wrecker rotation list: means the rotation list of wrecker companies licensed and approved by SPI-PD police chief to readily respond to emergency calls for service.

Private property tow: is when an owner/manager of a privately owned property contracts with an approved wrecker company to tow improperly parked vehicles from their premises.

Consent tow: means an individual owner/operator of a vehicle in need of towing, calls a wrecker service of their choice, to conduct the tow via their request.

Wrecker: means any motor vehicle used for the purpose of towing or removing disabled, abandoned, or wrecked vehicles.

Wrecker business: means the business of towing or removing vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such vehicle, when the towing is done to remove a wrecked or disabled vehicle from the scene of a collision at the instance or request of the owner thereof, or the police department or fire department, or to remove a vehicle from an unlawfully parked position at the instance or request of the police department or fire department.

Wrecker company: an individual, corporation, partnership, or other association engaged in the wrecker business of towing vehicles for compensation or with the expectation of compensation for the towing or storage of the vehicles and includes the owner, operator, employee, or agent of a wrecker company.

Sec. 11-201 PURPOSE

This ordinance is designed to set guidelines for police department-initiated calls, citizens' direct request, and private property (contract) calls for tow service within the city limits of South Padre Island. All emergency wrecker services listed on our police department's rotation list require regulations in order to avoid competitive speeding, unnecessary delay, and confusion by wrecker services. Such regulations are necessary in order to avoid traffic hazards and to minimize the danger of injury to persons and damage to property. Additional guidelines concerning citizen's direct request and private property tows are created to reassure fair and equitable treatment to our local tow companies, as well as our citizens and visitors alike.

Sec. 11-202 REQUIRED APPLICATION

Each tow company desiring to be placed on the city of South Padre Island's wrecker rotation, and/or to conduct private property contract towing, shall make application, in writing, on a form provided for that purpose, to the chief of police. Each application shall contain the name, address and telephone number of the wrecker company. The application shall also contain a list of all wreckers to be used by the company, to include type of unit, year model, vehicle identification number and current tow truck registration. Copies of current insurance policies for all wreckers listed and the storage facility shall also be provided. A current copy of the storage facility license shall be provided with the application. Photocopies of all driver's license for all drivers of the company, and a statement that the applicant does or does not desire to appear on the wrecker rotation list shall accompany the application. Every application when filed shall be sworn to by the applicant. Any application with false information or incomplete documentation will not be processed.

Sec. 11-203. PERMIT ISSUANCE BY CHIEF OF POLICE; SAFETY, INSURANCE AND OTHER REQUIREMENTS

Subject to the maximum numerical limits on the number of tow companies which may be placed on the wrecker rotation and/or approved to conduct private property towing, as set out in sec. 11-216 of this Article, the chief of police, or his designee, shall issue a permit to all wrecker companies making appropriate application and desiring to be placed on the city's wrecker rotation list and/or conducting private property towing, provided however that any such applicants selected must comply with the provisions of this Article. No certificate authorizing wrecker companies, and/or their drivers, to conduct business within the city limits shall be issued unless the following requirements are met:

(1) Every wrecker proposed to be used by the applicant shall comply with the following minimum safety requirements:

a. Each wrecker shall be not less than three-quarters ton in size and shall be equipped with booster brakes.

b. Each wrecker shall be equipped with a power winch line and boom, with a factory-rated lifted capacity of not less than 5,000 pounds single line capacity.

c. Each wrecker shall carry as standard equipment: tow bars or roller bars, safety chains, a fire extinguisher, wrecking bars, an axe and oil absorbent material. The applicant shall have dollies if needed, but they are not required equipment for each wrecker.

d. Each wrecker proposed to be used shall comply with the requirements of sec. 11-204 of this Article.

e. Each wrecker so qualifying shall be issued safety and insurance compliance inspection certificates.

(2) Insurance Requirements.

a. Each wrecker company shall produce and keep in full force and effect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the State of Texas and in the standard form approved by the board of insurance commissioners of the state, with the insured provision of such policy including the city as an insured, and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of such company and providing that the amount of recovery on each wrecker shall be in limits of not less than \$500,000.00 for damages arising out of bodily injury to or death of one person in any one accident, and \$100,000.00 for injury to or destruction of property in any one accident. Failure to maintain insurance will result in immediate removal from the rotation list.

b. A list of all wrecker operators/drivers and a copy of their Texas Operator License shall be submitted with the above insurance policies. It shall be the obligation of the wrecker company to keep the South Padre Island Police Department informed of any changes in their drivers and to provide the city with evidence of compliance with Section 521.459 Transportation Code.

c. Each wrecker company on the rotation list must meet all vehicle storage facility requirements as stated in Section 18.91 and/or other applicable section(s) of the Texas Department of Transportation Motor Carrier Rules and Regulations and the requirements of this ordinance.

(3) Taxes. No delinquent taxes shall be due the city upon any wrecker company or vehicle storage facility for which such permit is sought.

(4) Fees.

a. *Annual fee.* There is hereby imposed an annual fee of \$50.00 per wrecker company. The fee will cover either or both, to be placed on the city rotation list and/or to conduct private property tows.

b. *Inspection fee.* There is hereby imposed an annual inspection of \$25.00 per wrecker unit for each unit of each wrecker company.

c. *Operator/driver permit.* While this ordinance does require permitting of tow truck operator/drivers, there is no charge for the operator/drivers permits issued by this agency.

(5) A copy of all current licenses, registration and/or certificates issued by the state allowing the applicant to operate a wrecker or a vehicle storage facility shall be required upon initial application and upon payment of annual fees per wrecker company or wrecker unit.

(6) Each wrecker unit shall have the wrecker company's name and telephone number of the business operating the wrecker unit permanently inscribed on each side of the cab of the wrecker in letters no less than two inches high in contrasting colors. No temporary signs of any kind will be permitted.

(7) A certification to continue providing services on the city's wrecker rotation list may be revoked for failure to meet and/or maintain the required standards and regulations of state law (including, but not limited to, Chapter 684 of the Transportation Code) and/or this Article.

(8) If a wrecker certification is revoked, the wrecker will not be allowed to continue service for calls from South Padre Island Police Department from the rotation list or private property towing, until the wrecker company produces proof of compliance with the required standards and regulations.

(9) Any wrecker conducting rotation and/or private property towing within the city limits, shall maintain or contract with, a state permitted vehicle storage facility within 10-miles (driving miles) of the City of South Padre Island, Texas. Vehicles towed pursuant to this ordinance shall be stored at a facility complying with this section.

(10) Any wrecker company conducting rotation and/or private property towing within the city limits, shall maintain a place of business for conducting operations, including towed vehicle storage, no further than State Hwy 100 and CR 510, Laguna Vista, or within 10-miles of South Padre Island's city limits.

(11) All wrecker companies must agree to comply with all sections of the South Padre Island Police Department wrecker ordinance/SOP, a copy of which will be provided at time of application or annual renewal.

(12) All wrecker companies applying for placement on the voluntary wrecker rotation list must agree to respond to all requests for wrecker service initiated by the city and must abide by this Article as well as all other applicable local, state and federal laws and regulations.

(13) All wrecker companies applying for placement on the voluntary wrecker must agree to send an authorized representative to all auctions at which that company has vehicles set for auction.

Sec. 11-204 STATE INSPECTION REQUIREMENT; WRECKER SAFETY AND INSURANCE COMPLIANCE INSPECTION CERTIFICATE

Each application for placement upon the wrecker rotation list, and those wrecker services conducting private property towing services, shall state that each wrecker of the company has been inspected and approved under the direction of the Texas Department of Public Safety, and a current inspection sticker shall be affixed securely to the inside of the windshield of the wrecker vehicle. No person shall operate a wrecker in the city unless a permit to engage in such activity has been issued to such wrecker by the South Padre Island Police Department. No permit or safety and insurance compliance inspection certificate shall be transferable, and every permit and safety and insurance compliance inspection certificate shall expire at midnight on December 31 of the calendar year in which issued. Each permit and safety and insurance compliance inspection certificate will be void immediately upon expiration and/or cancellation at which time any such wrecker shall no longer be used on rotation with the South Padre Island Police Department, and the wrecker company shall return the permit and safety and insurance compliance inspection certificate to the city police department upon request.

Sec. 11-205 SUSPENSION AND/OR REVOCATION OF PERMIT

For those wrecker companies engaged in providing services on the city's rotation list, the companies may have their permits suspended and/or revoked under the following conditions:

(1) A wrecker company may have its permit suspended:

a. For seven days for any violation of this Article or state law if a violation occurs within a twelve-month (12) period.

b. For twenty days for a second or subsequent violation of this Article or state law.

(2) A wrecker company may have its permit revoked:

a. For a third or subsequent violation of this Article or state law if a violation occurs within a twelve-month (12) period.

b. If it causes or permits the operation of a city certified wrecker either owned or contacted for, by an unlicensed driver on the public roadways.

c. If it causes or permits the operation of a wrecker (either owned or contracted for) not certified by the city, on the public roadways.

d. If it fails to maintain in force the insurance required for the operation of a wrecker company, vehicle storage facility or its wreckers as required by the laws of Texas.

e. If it or its employees or agents operates a wrecker or the wrecker company in any way which endangers the life or safety of any person, including but not limited to any of the following ways: (i) grossly negligent operation of a wrecker used by the wrecker company; (ii) Criminal assault committed by the permit holder, his agents, or employees during the normal course of business. The chief of police shall not revoke the permit if the permit holder permanently terminates the employment of such employee immediately upon its becoming known to him that such conduct did take place; (iii) intentionally submits false information on the application to be placed on the wrecker rotation list with the South Padre Island Police Department; (iv) convicted of a violation under this Article; (v) convicted of fraud or theft, as defined in the Texas Penal Code, in the conduct or operation of the permit holder's wrecker company; (vi) guilty of criminal trespass or theft.

Sec. 11-206 SUSPENSION OR REVOCATION HEARING

(a) Upon the filing of a written complaint against a wrecker company or any agent or employee thereof filed by any person with the chief of police or designated person, upon his own admonition charging violation of any of the terms of this Article or any ordinance of the city or laws of the state regulating motor vehicles or crimes of moral turpitude or for good cause shown, the chief of police or designated person *may* conduct a hearing with reference to such complaint, accordingly:

(1) Notice of the hearing shall be sent to the wrecker company by certified letter, return receipt requested or by hand delivery.

(2) Said notice to the wrecker company shall set forth the section of this Article or state law the complaint is based upon, the allegations made against the wrecker company, and, where appropriate, the date and location the violation occurred.

(3) The hearing shall take place within ten (10) days of delivery of the notice of hearing, unless otherwise agreed by the parties. The wrecker company shall be provided by certified letter, return receipt requested or by hand delivery notice of the time, date, and location of the hearing.

(4) At the hearing the wreckers company may present evidence and testimony in its defense and may cross-examine any witnesses.

(5) After such hearing the chief of police may revoke or suspend the authorization of the wrecker service company to continue providing service on the city's wrecker rotation list, as well as revoke permits issued to conduct private property towing.

(b) After the chief of police has reviewed the findings of the complaint for suspension or revocation of the permit of any wrecker company, he shall make a determination and declare such findings along with the terms, if any, of the suspension of a temporary or permanent nature. The decision of the chief of police shall be presented in writing and sent to the wrecker company by certified letter, return receipt requested or by hand delivery.

(c) The decision of the chief of police under this section may be appealed to the city manager, provided that notice of appeal must be perfected within ten calendar days from receipt of the chief of police's decision. Notice of appeal is perfected by sending a certified letter, return receipt requested, addressed to the city manager of the City of South Padre Island, stating that an appeal from the decision of the chief of police is desired. The city manager shall hold a hearing on the matter within a reasonable time after receipt of such return and shall issue a decision thereon within a reasonable time after such hearing which decision shall be final and unappealable.

Sec. 11-207 WRECKERS TO BE SUMMONED BY POLICE OR FIRE; RESPONSE TIMES

(a) No wrecker service shall drive to or near the scene or site of an accident or collision on the streets of the city unless such person/company has been called by the police or fire department or by the owner or operator of a vehicle involved in said collision; Only wreckers that have been officially summoned will be able to conduct the tow.

(b) Wreckers summoned by the police department are subject to cancellation. Wreckers shall respond anywhere in the city within 30 minutes. If cancelled, the wrecker company will be placed back on the rotation list for another call. Wreckers summoned to calls where the police have not arrived, will not hook up the vehicle until the police arrive. Fees for non-hook ups will not be charged.

Sec. 11-208 SOLICITING WRECKER BUSINESS AT SCENE OF ACCIDENT PROHIBITED; PRESENCE AT SCENE AS EVIDENCE OF VIOLATION

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

Sec. 11-209 PROHIBIT INTERCEPTION OF COMMUNICATION FROM THE POLICE/FIRE DEPARTMENT RADIO FREQUENCY

No wrecker company, shall intercept any message emanating through the medium of the police or fire department radio frequency or divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication; and no person, not being entitled thereto, shall receive or assist in receiving any such message and use such message, or any information therein contained, for his own benefit or for the benefit of another person.

Sec. 11-210 WRECKER ROTATION LIST

(a) If the owner of a vehicle involved in an accident or collision is physically unable to name the wrecker company desired, or declines to name one or if the South Padre Island Police Department is called

relating to a request for wrecker company, the investigating or responding officer or employee shall cause the request for wrecker company to be initiated from the wrecker rotation list maintained by the South Padre Island Police Department. Any wrecker company requesting to be placed on the city wrecker rotation list shall meet the requirements as set out in sec. 11-202 through 11-204 of this Article.

(b) The wrecker company shall immediately notify the chief of police or his designated person, in writing, of any changes in status as it relates to any insurance, drivers, wreckers' registration, certificates, vehicle storage facilities, permits or any factor that may impede its ability to comply with this Article.

(c) The wrecker company on the wrecker rotation list shall notify the South Padre Island Police Department on a form provided for that purpose of all abandoned vehicles, which were towed as a result of a rotation call, in their vehicle storage facility in accordance with Section 683.031 of the Texas Transportation Code. In addition the notification shall include the \$5.00 fee required by Section 683.031.

(d) On receiving a communication from the South Padre Island Police Department, the wrecker company presently on call, or its duly authorized agent, shall tow the disabled vehicle and remove such vehicle from the public streets of the city. On each succeeding communication or the inability or refusal of an owner to name a wrecker company, the next wrecker company on the list shall be called, and proper rotation on such list be on a per-call basis for each wrecker company holding a permit in accordance with procedures established by the chief of police.

(e) South Padre Island Police Department will be conducting periodic inspections for insurance, inspection certificates and permits of wreckers on rotation responding to calls for service. Wreckers that respond to calls for the police department that do not have an issued permit on file, will not be allowed to tow any vehicles. Violation of this article will result in a complaint filed against the wrecker company. The designated officer or person in charge of overseeing the wreckers on the rotation list can also upon request check receipts at the vehicle storage facility.

Sec. 11-211 PRIVATE PROPERTY TOWS

Only those wrecker companies approved and permitted by the city of South Padre Island can conduct private property contract towing within our city limits. Those approved tow companies will meet all the mandated requirements concerning licensing and insurance as specified in this ordinance. Private property towing includes but is not limited to condos, townhouses, and hotels. Wrecker companies approved to operate under the ordinance will agree to the following:

(1) The wrecker service will have in their office, a signed agreement with the owner/manager of said private property, or whomever has the authority to legally represent the private property, indicating their desire to have the towing enforced.

(2) For every vehicle towed, the wrecker service will indicate on their paperwork which private property representative approved that particular tow.

(3) Fees for private property tows will be followed as specified in sec. 11-212 of this Article.

(4) Wrecker services conducting private property tows, will within two (2) hours of towing a vehicle, notify the South Padre Island Police Department Dispatch by fax, using the designed form provided by the city, and by phone to a dedicated number. Phone numbers may be changed by giving notice to the Wrecker/Towing Companies. In the event of facsimile and/or phone problem, the wrecker service will drop-off the completed form to South Padre Island Police Department within the two-hour timeframe.

Sec. 11-212 MAXIMUM RATES

Approved wrecker companies conducting rotation and/or private towing services agree to follow the rates as set herein as a condition of being approved to operate within the city limits.

(1) The wrecker service fees for vehicles under three tons:

a. Police initiated / rotation calls: \$185.00

b. Private property tows: \$200.00

c. Add-on cost for equipment use, such as, dollies, go-jacks, skates and/or winching, the additional fee is \$30.

d. If the vehicle is located in high water an additional fee of \$50.00 per hour after the first hour may be charged.

e. If the wrecker company is required to wait more than one hour after arriving on the scene of the tow to connect the vehicle an additional fee of \$7.50 may be charge for each 15 minutes in wait time after the first hour.

f. If the vehicle owner or operator request that the vehicle be towed to a location outside the city limits the wrecker company may charge an additional fee of \$2.00 for every mile outside the city limits.

(2) The wrecker service fee for vehicles over three tons in response to a call from any employee of the city acting in his official capacity, shall be \$250.00 per hour with a one hour minimum. Additionally, vehicle owners requiring heavy-duty or specialty wreckers will be able to make arrangements with a heavy-duty wrecker service, with fees that are reasonable for that service.

(3) The wrecker service fee pursuant to sec. 11-213 of this Article, the "drop fee" shall be \$85.00.

Sec. 11-213 DROP FEES

If the owner or operator of a vehicle which is parked in violation of this Code or state law arrives after the wrecker has been physically attached to the vehicle, but before the vehicle is removed from the property, a towing company shall release the vehicle at the scene for a fee not to exceed the drop fee of \$85.00, as set forth in sec. 11-212 of this Article.

Sec. 11-214 SAFETY PRECAUTIONS

Each wrecker company that has been issued a permit by the police department shall follow standard safety precautions and operation procedures generally recognized in the wrecker business to and from and at the scene of an accident or collision and shall comply with all traffic laws, including local city ordinances. Each wrecker company at the scene of an accident or collision shall promptly remove all debris from the accident or collisions occurring on the public right of way.

Sec. 11-215 PENALTIES FOR VIOLATIONS

(a) Any owner of a wrecker company, agent or employee of a wrecker company, driver or operator of a wrecker found guilty of violating this ordinance or any of the state laws, shall upon conviction be subject to a fine, as provided by Sec. 21-1 the Code of Ordinances.

(b) Only permitted wrecker services of South Padre Island will be allowed to conduct police initiated rotation tows and private property contract tows for service. Unapproved and unpermitted wrecker companies conducting anything other than consent towing services to individuals will be issued a municipal court citation for violating this ordinance.

(c) In addition to the remedies in this section, the city shall be entitled to injunctive or other civil remedy in any court of competent jurisdiction in accordance with the laws of the state.

Sec. 11-216 MAXIMUM NUMBER OF WRECKER COMPANIES

The number of wrecker companies approved to operate on the city South Padre Island rotation list and/or to conduct private property towing within the city limits, shall be set by the city council from time to time and such number may be increased or decreased at the discretion of the city council, based partially on the police chief's recommendation. The maximum number or names of wrecker companies may be changed by City Council by appropriate resolution. Upon adoption of this article, those wrecker companies which are currently on the city's rotation list shall be allowed to apply with the city to continue on the rotation list and/or to conduct private property towing service, if they meet the criteria set out in this ordinance, they shall remain on the rotation list. Following that process, any remaining positions on the rotation list shall be filled by drawing from a pool of applicants created by the chief of police and certified to qualify pursuant to this Article.

(a) Currently the maximum amount of wrecker services authorized to conduct business on the police rotation list is four (4) wrecker services. They are: 1) Paradise Towing, 2) Bay Area Towing, 3) A-pro Island Beach Towing, and 4) Cantu's Towing.

(b) Currently the maximum amount of wrecker services authorized to conduct private property towing services within the city limits of South Padre Island is four (4). They are: 1) Paradise Towing, 2) Bay Area Towing, 3) A-pro Island Beach Towing, and 4) Cantu's Towing.

Sec. 11-215 to 11-219 reserved.

ARTICLE XII

SHORT TERM RENTALS

Sec.11-220. Short Term Rentals

- (a) The purpose of this Article is to establish regulations for the use of residential single family dwelling units ("dwelling units" herein) as short term rentals and to ensure the collection and payment of hotel/motel occupancy taxes.
- (b) For purposes of this Article a Short Term Rental (STR), is defined as a residential dwelling, including a single-family residence, apartment, residential condominium unit, or other residential real estate improvement, in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than 30 consecutive days. The term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling.
- (c) For purposes of this Article: An Owner shall designate the Owner, or an Agent or a Representative to comply with the requirements of this section on behalf of the Owner. The Owner or designated agent or representative is referred to as "Operator" herein.
- (d) The Owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short term rental unit, regardless of whether such noncompliance was committed by the Owner's authorized agent or representative or the occupants of the Owner's short term rental unit or their guests.
- (e) This Article is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this section.

Sec.11-221 Registration

- (a) The Owner/Operator who offers for rent or advertises for rent (in any manner) a short term rental of a dwelling unit shall obtain a short term rental registration and any other required documents from the Convention Centre Department of the City of South Padre Island located at 7355 Padre Blvd, South Padre Island, Texas, 78597. The Convention Centre Department may be contacted at phone number is 956-761-3000 for additional information.
- (b) The Owner/Operator must submit the following information on a short term rental registration form:
- (1) The name, address, email and telephone number of the Owner/Operator of the subject short term rental unit;
 - (2) The name, address, email and twenty-four hour telephone number of the local contact person;
 - (3) The local contact person is the person designated by the owner or the operator who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of:
 - (1) responding in person within one hour to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit; and
 - (2) taking remedial action to resolve any such complaints.
 - (4) The name and address of the proposed short term rental unit;
 - (5) The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed short term rental unit;
 - (6) The property ID number as listed on the Cameron County Appraisal District; and
 - (7) Such other information as the City Manager, or designee, deems reasonably necessary to administer this section.

(c) If any information on the registration form changes, the Owner/Operator must modify that information within 30 days.

(d) Registration Fee

- (1) The short term rental registration form shall be accompanied by an initial registration fee as established by the City Council.
 - i. The initial rental registration fee shall be fifty dollars (\$50.00) (per rental unit).
 - ii. The initial registration fee is waived for those properties that have been properly remitting hotel occupancy tax.
- (2) A registration is valid from the date the completed registration is filed with the City and payment of the registration fee (if applicable) has been made, unless the ownership of the short term rental changes.
- (3) Each property shall be issued a registration number.

(e) The registration number must appear on any advertisement of the property available for short term rental.

Sec.11-222 Compliance -Penalty Provision

(a) The Owner or Operator shall comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short term rental unit, including, but not limited to, Chapter 12, "Noises" and Chapter 17, Article II "Hotel-Motel Occupancy Tax" of the City Code of South Padre Island. Pursuant to Sec. 17-10 of the city code, the Owner or Operator shall, submit a monthly report to the City, on the appropriate "Hotel Occupancy Tax Collection Report" form, even if the short term rental unit was not rented during any such month.

(b) Any violation of this Article XII may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense or for each day such offense shall continue and the penalty provisions of Section **21-1** of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Chapter 12

OFFENSES AND MISCELLANEOUS PROVISIONS

Sec.12-1 Firearms--Discharge prohibited, exceptions.

The discharge of any type of firearms, including, but not limited to, pistols, rifles, shotguns and airguns, is expressly forbidden within the limits of the City. This prohibition does not include the discharge of a firearm by a peace officer or law enforcement officer in the exercise of his lawful duty. (Ord. No. 7, 7-18-73)

Sec.12-2 Noises--Loud, disturbing, etc. prohibited.

(A) **Definitions and Standards.** [As used in this Sec. 12-2, the following words and terms shall have the meanings respectively ascribed:]

A-weighted sound level means the sound pressure level in decibels are measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Daytime/evening shall mean the hours between seven o'clock a.m. and eleven o'clock p.m., Sunday through Thursday and seven o'clock a.m. and midnight Friday and Saturday.

Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Nighttime shall mean the hours between eleven o'clock p.m. and seven o'clock a.m., Sunday through Thursday and midnight. and seven o'clock a.m. Friday and Saturday.

Noise nuisance means any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities, or any sound that exceeds the maximum permitted sound levels specified in subsections B(a)(8)-(12).

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(B) Noise Nuisance Enumeration.

- (a) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances," and are unlawful and in violation of the provisions of this division when such acts are done or accomplished or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to annoy, to distress, or to disturb the quiet,

comfort, or repose of a person of reasonable nervous sensibilities, within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well being of humans or animals, or so as to endanger or injure personal or real property:

(1) The playing or permitting or causing the playing of any radio, television, phonograph, drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound.

(2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.

(3) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.

(4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.

(5) The erection, including construction, excavation, demolition, alteration, or repair work, or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

a. Other than during the daytime; or

b. At anytime such that the sound level at or across a real property boundary exceeds 80dBA.

c. This section shall not apply in cases of urgent necessity in the interest of public safety, or in cases of public convenience, including city sponsored or co-sponsored fiestas, parades, and public events.

(6) The crying, calling, or shouting, in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise.

(7) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.

(8) The making of noise which exceeds seventy-five (75) decibels on District zoned "A" property as defined by Chapter 20, Code of Ordinances (Zoning), when measured from property under separate ownership.

(9) The making of noise which exceeds seventy-five (75) decibels on District "E" property as defined by Chapter 20, Code of Ordinances (Zoning), when measured from property under separate ownership.

(10) The making of noise which exceeds seventy-eight (78) decibels on District zoned "B", "B-2" and "NT", properties as defined by Chapter 20, Code of Ordinances (Zoning), when measured from property under separate ownership.

(11) The making of noise which exceeds eighty (80) decibels on District zoned "C", "NC", "TCC", "PBS" and "PBC" property as defined

by Chapter 20 Code of Ordinances, when measured from property under separate ownership.

(12) The making of noise which exceeds eighty-five (85) decibels emanating from property in Districts "BF", "EDC", C-2, PDD, PBN, D, D-1 and D-2 as defined by Chapter 20 Code of Ordinances (Zoning), when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate ownership for purposes of determining the boundaries of the noise source property from in those districts.

- (b) Subtract seven (7) decibels for noise at nighttime except in Districts "BF", "EDC", "PBN", PDD, D, D-1 and D-2 as defined by Chapter 20 Code of Ordinances (Zoning).

(C) Vibration.

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments at any point on any affected property adjoining the property in which the vibration source is located

(D) Vehicular mounted sound amplification systems.

It shall be unlawful for any person operating or controlling a motor vehicle in either a public or private place within the City to operate any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette player, or other similar device in the motor vehicle, in such a manner that, when operated, is audible at a distance of thirty (30) or more feet from the source or, when operated causes a person to be aware of the vibration accompanying the sound in any location outside the confines of the vehicle emitting the sound, noise, or vibration. A culpable mental state is not necessary to constitute a violation of this section.

(E) Exceptions.

The provisions of this Sec. 12-2 shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to an emergency; or
- (2) Sound produced by emergency vehicles; or
- (3) Sound produced by a vehicle motor while the vehicle is moving on a public right-of-way or public waterway; or
- (4) Sound produced by any governmental body in the performance of a governmental function; or
- (5) Sound generated by parade spectators and participant on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the City for the general welfare of the public; by pyrotechnic displays that are inspected and approved by the City Fire Chief.
- (6) Sound produced by the operation of any air-conditioning unit, heat pump, or swimming pool machinery which does not produce a sound exceeding sixty-five (65) dBA on residential property or seventy (70) dBA on non-residential property, when measured at a distance of either fifteen (15) feet from the equipment producing the sound, or to the nearest exterior wall of a residential or commercial building under separate ownership, whichever distance is shorter.

(7) Sound produced solely for the purpose of encouraging citizen participation in elections.

(F) Method of Noise Measurement.

(1) Whenever portions of this Chapter prohibit noise over a certain decibel limit, measurement of said noise shall be made with a decibel meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Calibration corrections shall be employed in meeting the response specifications prior to every sampling of noise. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Except as provided in Subsection (B)(a)(11), measurements may be taken at a point on adjacent public or private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.

(2) The decibel standard for the noise source shall be the standard for the zoning district of the property from which the noise source is emitted.

(G) Identification of Violator.

The persons responsible for violations of this Article are identified as follows:

(1) *At private residences.* Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult resident is present at the time of the offense.

(2) *At business locations.* Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or property at the time of the offense.

(3) At any location with an unattended noise nuisance producing machine, device, instrument, child, animal or combination of same. Any person who leaves unattended any machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this Article.

(H) Penalties.

Any person who violates any portion of this Sec. 12-2 is guilty of a misdemeanor and shall upon conviction be subject to a fine, as provided by Section 21-1 of the Code of Ordinances.

[Ord. 06-04. May 2006]

Sec.12-3 Camping--"To camp" defined.

"To camp", as used in this Chapter, is defined as a person or persons remaining stationary for purposes of spending the night, or sleeping during night time hours, including, but not limited to, the erection of a temporary structure such as a tent for purposes of sleeping during the night. (Ord. No. 23, 6-19-74)

Sec.12-4 Same--Prohibited in absence of sewer facilities.

It shall be unlawful for any person to camp within the City limits, unless there are maintained and available at the campsite sanitary sewer facilities consisting of a sanitary sewer system. (Ord. 23, 6-19-74)

Sec.12-5 Same--Prohibited upon private property without owner consent.

It shall be unlawful for any person to camp upon any private property located within the City limits, without the consent of the owner or owners thereof. (Ord. No. 23, 6-19-74)

Sec.12-6 Same--Prohibited upon street, right-of-way, etc.

It shall be unlawful for any person to camp upon any road, street, alley or right-of-way within the City limits. (id)

Sec.12-7 Glass. prohibited on beach.

No glass material or glass containers of any type, size, shape or description may be taken upon, placed, used, or deposited in any manner, within the public beaches contained within the City limits. (Ord. No. 102, 9-15-82)

Sec.12-8 Watering of lawns and shrubbery—Regulated.

The City Manager may, in his discretion, should he deem an emergency exists, prohibit any person or corporation to apply the potable water of Laguna Madre Water District for watering of their lawns or shrubbery, and prohibit said water from being used for any purpose other than for drinking and living purposes. (Ord. 81)

Sec.12-9 Same--Notice.

Such order of the City Manager shall become effective immediately subsequent to posting of notice for three (3) consecutive days at City Hall. (Ord. No. 81, 7-23-80)

Sec.12-10 Airplanes--Prohibitions on landing and operating.

- (A) No aircraft, as the term is defined by the Federal Aviation Administration, nor ultra light aircraft, nor any other type of airborne craft, whether driven by mechanical means or not, may take off, land or taxi upon the public beaches, public right-of-ways, or easements within the City of South Padre Island, unless they hold a permit from the City as provided by this Section.
- (B) No aircraft of any type, licensed or unlicensed, may take off and land from any location within the City unless they have been duly issued a permit by the City Council of the City of South Padre Island as herein provided.

- (C) The City Council upon proper application, may issue a permit for aircraft to take off, land and/or taxi within the City under such conditions and circumstances as may be imposed by the City Council, taking into due consideration the questions of safety, noise and general nuisance that said aircraft may create for the surrounding properties. (Ord 111, Feb 84)
- (D) Regardless of the other provisions of this Section, the City Manager or designee may issue a permit for a helicopter to be used for filming the Island to take off and/or land within the City under such conditions and circumstances as may be imposed by the City Manager or designee. (Ord 01-04)
- (E) Emergency medical evacuation helicopter(s), military and or law enforcement helicopter(s) are exempt from the provisions of the Section. (Ord 01-04)

Sec.12-11 Prohibiting Placement of Material on Utility Structures.

It shall be unlawful for any person to nail, tack, staple, paste or in any manner attach any sign, notice, bill or other advertising matter or any other attachment to any telegraph, telephone, cable, electric utility pole, fire hydrant or any other above ground utility structure in the City limits of the City of South Padre Island, Texas.(Ord. No. 118, 11-20-85)

Sec.12-12 Special Expense for Issuance and Service of Arrest Warrant.

- (A) A person who is arrested after issuance and service of an arrest warrant for an offense under Section 38.11, Penal Code, or under Section 149, Uniform Act Regulating Traffic on Highways (Article 6701d, VATS), shall be assessed a special expense by the judge of the municipal court in the amount of Thirty-Five Dollars (\$35.00). Such special expense shall be paid into the City treasury for the use and benefit of the City.
- (B) After due notice of default of personal bond, a person who is arrested after issuance and service of an arrest warrant for failure to appear under Article 17.04, Code of Criminal Procedure, shall be assessed a special expense by the judge of the municipal court in the amount of Thirty-Five Dollars (\$35.00). Such special expense shall be paid into the City treasury for the use and benefit of the City.(122A.)

Sec.12-13 When Case is Dismissed because of actions by Defendant.

The Judge of the Municipal Court may impose a Special Expense in any case that is dismissed pursuant to Subsection (a), Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d,VATC). Such special expense shall not exceed the actual expenses incurred or Ten Dollars (\$10.00) whichever is less. (Ord. No. 128, 8-87)

Sec. 12-14 Prohibition of Parking on Private Property in No Parking Zones.

Except when necessary to avoid conflict with other traffic or in compliance with laws or the direction of a police officer or official traffic-control device, no person shall stop, stand or park a vehicle on private property:

- (A) In any fire zone or adjacent to any curb that has been marked in red paint (or any hue thereof);
- (B) On a sidewalk;(C) On a crosswalk.

Sec. 12-15. Slow Speed/Minimum Wake Required of all Watercrafts.

All watercraft(s) operating on the public waterways within the incorporated limits of the City shall be operated in a manner not to create more than a minimum wake and is therefore required to operate at slow speed. Slow speed/minimum wake requires that all watercraft be completely off plane and fully settled into the water. If a vessel is operating on a plane (i.e. travels on top of the water) it is not operating at a slow speed/minimum wake and is in violation of this section. All watercraft operating within the City shall maintain a slow speed/minimum wake and may then proceed in a manner that is reasonable and prudent under the existing circumstances. The operator of any watercraft that creates more than a minimum wake shall be deemed in violation of this section and subject to the fines provided in Section 21-1 of the Code of Ordinances.

Sec. 12-16. Riding on portion of vehicle not intended for passengers.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

Sec. 12-17. Boarding or alighting from moving vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

Sec. 12-18. Loitering.

- (A) Loitering unlawful. It shall be unlawful for any person to loiter, as hereinafter defined, in or about any place, public or private, when such loitering is accompanied by an activity or is under circumstances that afford probable cause for alarm or concern for the safety and well-being of persons or for the security of property in the surrounding area.
- (B) Definitions. [Applicable for enforcement of this Sec. 12-18]
 - (1) Loiter. The term "loiter" shall include the following activities: lingering; hanging around; idle spending of time; dawdling, sauntering and moving slowly about where such conduct is not due to physical defects or conditions.
 - (2) Place. The term "place", public or private, shall include, but not be limited to, the following: all places commonly known as being distinctively public, such as public streets, public restrooms, sidewalks, parks, municipal airports, parking lots, alleys and buildings; all places, privately owned but open to the public generally such as shopping centers, transportation terminals, retail stores, movie theaters, office parking lots, buildings, and restaurants, all places distinctively private, such as homes or private residences and apartment houses.
 - (3) Surrounding area. The term "surrounding area" shall be defined as follows: that area easily and immediately accessible to the person under observation.
- (C) Examples of loitering activities. The term "loiter" is hereby defined to include any of the following activities, although this list is not meant to be all-inclusive:

- (1) Lingering or remaining at any place near a business in which the persons has no ownership, employment, or business interest, either within or outside of a vehicle, when the premises are not open for business to the public;
- (2) Lingering or remaining in the streets, sidewalks, parking lots, alleys or vicinity of a residence, home, or dwelling, including an apartment, in which the person has no ownership or other interests;
- (3) Failure to leave private property when requested to do so by the owner, manager, proprietor, or lessee of such property;
- (4) Walking, standing, remaining in a business district or nonresidential area of the city under circumstances which show no apparent business or employment-related need for such activities;
- (5) Lingering in the streets, alleys, sidewalks, parks or other public places, either within or outside of a vehicle, under circumstances that show no apparent reason or business to do so;
- (6) The systematic checking by a person of doors, windows, or other means of access to buildings, houses, or vehicles;
- (7) Loaf or gather, or assemble upon any sidewalk or street of the City in such numbers or in such manner as to impede the free use of such street or sidewalk, or to interfere with persons passing along the same;
- (8) Continuous presence by a person in close proximity to any building, house, vehicle, or any other property or to any other person, at any time, when the activity of such person manifests possible unlawful activity, such continuous presence being for an unreasonable period of time under the circumstances then existing;
- (9) The use of loud, vulgar, obscene, profane, sexually explicit or suggestive language;
- (10) Begging or panhandling; eating from garbage cans, trash, etc.;
- (11) Obstructing or interfering with the free passage of any vehicle or pedestrian in any place;
- (12) Gambling;
- (13) Soliciting or engaging in any commercial trade or commercial transaction unless specifically authorized to do so;
- (14) Creating or causing to be created or threatening to create or cause any breach to the public peace;
- (15) Inhabiting or remaining in any public place for a period longer than which is reasonably necessary to utilize the public place for its intended purpose.

(D) The circumstances which may be considered in determining whether alarm is warranted are as follows:

- (1) The individual takes flight upon the appearance of a peace officer.
- (2) The individual refuses to identify himself.
- (3) The individual attempts to conceal himself or any object;

(E) Unless flight by the individual makes it impracticable, a peace officer, prior to any arrest or citation under this section shall afford the individual the opportunity to dispel the alarm which would otherwise be warranted by requesting him to:

- (1) Cease and desist the activity;
- (2) Depart the public place; or
- (3) Identify himself and explain his presence and conduct.

- (F) Affirmative defenses. The following activities shall not be considered loitering and shall constitute an affirmative defense to the prosecution of violations of this section. A person shall not be considered loitering:
- (1) While in direct route and not lingering when the person is going to or from work or to or from his or her place of residence;
 - (2) While engaged in the repair of a disabled vehicle;
 - (3) If under the age of eighteen (18), while engaged in or in direct route to school, church, or entertainment activities with permission of his or her parent or guardian;
 - (4) If the person remains on private business property after closing hours if the person has written permission or consent of the property owner or tenant of said property allowing the person to be at such location after closing hours.
- (G) No person shall be convicted of an offense under this section if the peace officer did not comply with (E) above, or if it appears at trial that the explanation given by the individual was true, and if believed by the peace officer at the time, would have dispelled the alarm.
- (H) Nothing in this section shall be construed or enforced in such a manner as to abridge or restrict freedom of speech, religion or association.
- (I) Not a limitation. Nothing in this section shall be construed to in any way limit the present police powers of the law enforcement officers of the city to make any investigation, detention or arrest as the circumstances may warrant, in the usual course of the enforcement of the laws and the ordinances applicable to such case.[Ord 00-07, Apr 2000]

Sec. 12-19. Nitrous Oxide Offenses.

- (A) It shall be unlawful for any person to do any of the following acts:
- (1) To sell or transfer possession of nitrous oxide in any form to any person under the age of 19 years;
 - (2) To inhale any fumes, odors or gases from any form of nitrous oxide for the purpose of becoming intoxicated, dizzy, imbalance or unconscious. This does not apply to persons inhaling any form of nitrous oxide when administered by qualified medical personnel for medical or dental purposes;
 - (3) To display at any business establishment, at which persons under 19 years of age are permitted to enter, any form of nitrous oxide in such a manner that this product is unattended by personnel of such business establishment and is accessible to a potential customer of such business without the assistance of personnel of such establishment;
 - (4) To display at any business establishment, any form of nitrous oxide in such a manner that this product along with any paraphernalia suggests or promotes inhaling of any fumes, odors , or gases from any form of nitrous oxide for the purpose of becoming intoxicated, dizzy, imbalance or unconscious. This does not apply to businesses who sell any form of nitrous oxide to be administered by qualified medical personnel for medical and dental purposes.
 - (5) To sell, offer for sale, deliver or transfer possession to any person any form of nitrous oxide when he knows or has reason to believe that the person will use such for the purpose of becoming intoxicated, dizzy, imbalance or unconscious.

- (B) A person making a sale of nitrous oxide to a person may record the name, address, sex and age of the purchaser and the business establishment that person represents.
- (C) A person making a sale of nitrous oxide shall require the purchaser to present a valid pictured identification or driver's license issued by the Texas Department of Public Safety or any other state's valid driver's license or identification. A person who sells nitrous oxide to a person under the age of 19, does not commit an offense if the minor falsely represents himself to be 19 years of age or older by displaying an apparently valid driver's license or identification card issued by the Texas Department of Public Safety or any other state's licensing agency, containing a physical description consistent with his appearance for the purpose of the person to sell him the nitrous oxide.
- (D) Proof that a container was labeled as containing nitrous oxide shall constitute prima facie evidence that said container did contain nitrous oxide. [Ord 00-17]

Sec. 12-20. Possession or consumption of alcoholic beverages in the Central Business District.

- (A) It shall be unlawful for a pedestrian to possess an open container of an alcoholic beverage or to consume an alcoholic beverage in the Central Business District of the City.
- (B) The Central business District is defined as that area of the City lying between the southernmost traffic light on Highway 100 (also known as Padre Blvd)[Ed note: light in front of First National Bank] to the third traffic light located at Amber Jack Street and two hundred feet east and west of on both sides Highway 100 (also known as Padre Blvd), a map of such area being attached to this ordinance as Exhibit "A" and by reference incorporated for all purposes.
- (C) Open Container means a container that is no longer sealed which contains an alcoholic beverage.
- (D) Pedestrian shall mean any person standing, walking or traversing any public roadway, park, sidewalk or alley, including public and private parking lots located within the Central business District.
- (E) This section does not prohibit the legal possession of an open container or the consumption of alcoholic beverages in motor vehicles, buildings not owned or controlled by the City, residential structures, or licensed premises located within the Central Business District. [Ord. 00-19]

Sec. 12-21. Abatement of Graffiti

(A) Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates a different meaning:

- (1) DEPARTMENT shall mean the Police department.
- (2) DIRECTOR shall mean the Police Chief or the designee.

(3) Graffiti shall mean any unauthorized form of painting, scratching, writing, or inscription, including without limitation, initials, slogans or drawings, regardless of the content or nature of the material that has been applied to any wall, building, fence, sign, or other structure or surface and is visible from any public property or right-of-way or is visible from the private property of another person.

(4) Owner shall mean the record owner of the lot or parcel or other person specifically authorized in writing by the record owner to authorize the placement of any painting, scratching, writing or inscription upon the owner's property.

(5) Unauthorized shall mean without the consent of the owner or without authority of law, regulation or ordinance. Unless the owner proves otherwise, lack of consent will be presumed under circumstances tending to show (i) the absence of evidence of specific authorization of the graffiti by the owner, (ii) that the graffiti is inconsistent with the design and use of the subject property, or (iii) that the person causing the graffiti was unknown to the owner.

(B) Abatement of graffiti.

(1) It shall be the duty of each owner or person having the right of possession of any property within the City to keep and maintain their properties including buildings and fences or other structures free of graffiti, and to promptly remove such graffiti from the property.

(2) It shall be unlawful for any person owning or otherwise being in control of any real property within the City to maintain, permit or allow any graffiti to remain upon any structure located on such property when the graffiti is visible from the street or other public property.

(3) (a) The Police Chief shall enforce the provisions of this division.

(b) Whenever the Police Chief determines that graffiti on any structure is visible from the street or other public property, the Police Chief may issue an abatement notice to the owner of the property.

(c) (1) Upon finding a violation, a written abatement notice may be served upon the owner in control of the affected premises, giving notice that the property is in violation of this division and that graffiti on the premises must be removed within thirty (30) days after date of the notice. Such notice shall state further that if the condition is not corrected within thirty (30) days of such notice, the City may, without further notice, abate the public nuisance by removing or painting over the graffiti, and charge the cost of expense incurred in doing such work to the owner of such property, and fix a lien thereon.

(2) Such notice shall be in writing and be delivered as follows:

(a.) By personal service to the owner of the property; or

(b.) By letter addressed to the owner at the owner's post office address according to the records on file with the tax collection department;

(c.) If personal service cannot be obtained or the owner's post office address is unknown:

1. By publication at least twice within ten (10) consecutive days; or

2. By posting the notice on or near the front door of each building on the property to which the violation relates; or

3. 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 building.

(4) The abatement notice shall be substantially in the following form:

NOTICE OF INTENT TO REMOVE GRAFFITI

Date: _____

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti which constitutes a public nuisance located on the property commonly known as _____

_____, City of South Padre Island, Texas, within thirty (30) days after the date of this notice. If you fail to do so, City employees or private contractors employed by the City will be authorized to enter upon your property and abate the public nuisance by removal or painting over the graffiti. The costs of the abatement by the City's employees or its private contractors may be assessed upon your property and such costs shall constitute a lien upon the land until paid.

All persons having any objection to or interest in are hereby notified of their right to appeal this determination and to submit any objections or comments to the Police Chief, City of South Padre Island, Texas. All appeals must be filed in writing within ten (10) days from the date of this notice. After the expiration of thirty (30) days from the date of this notice, unless an appeal is timely made, the City may proceed with the abatement of the graffiti at your expense without further notice.

(C) Graffiti abatement—Appeal.

- (1) Any person having an interest in the property, shall upon written request, within ten (10) days of date of the notice to abate be given a hearing before the Police Chief to show cause as to why the order should not be enforced. The person requesting a hearing shall provide an address to which all notices of the hearing shall be mailed.
- (2) Upon notice of written request to appeal, the Police Chief shall serve on the person requesting the appeal a copy of the notice of hearing by mail at least ten (10) days before the hearing. Such notice shall be mailed to the address provided by the person requesting the hearing and service shall be completed at the time of the deposit of the notice in the United State mail, with postage fully prepaid.
- (3) The failure of any person to receive such notice of hearing shall not affect the validity of any proceedings under this section.
- (4) At the time stated in the notice, the Police Chief shall hear and consider all relevant evidence, objections, or protests and shall receive testimony from owners, witnesses, including City personnel and interested person relative to the alleged public nuisance and to the proposed removal of the graffiti.
- (5) Upon conclusion of the hearing, the Police Chief shall determine whether the premises, as maintained, constitutes a public nuisance within the meaning of this division. If there is a finding that such public nuisance does exist, the Police Chief shall determine how the graffiti is to be removed or abated and shall establish a time within which removal shall take place. In the event that the owner fails to abate the graffiti within the time prescribed, the City may proceed to cause the graffiti to be abated as provided in this division, without further notice to any person.
- (6) A copy of the determination of the Police Chief shall be served by mail upon the owner of the affected premises. Failure of the owner to receive the determination letter shall not be grounds for delaying the actions of the City.

(D) Reserved.

(E) Graffiti abatement—Removal by City.

- (1) Upon the failure of the responsible person to comply with the notice of abatement, when final, by the designated compliance date, the Police Chief is authorized to cause the graffiti to be abated and assess the costs against the property owner. In abating such graffiti, the City or its contractor is expressly authorize to enter and abate graffiti upon utility

cabinets and exterior walls and fences abutting public streets, property, or rights-of-way.

- (2) If the owner demonstrates that none of the family members residing in a homestead that is the subject of a graffiti notice is able to apply the paint because of age, physical disabilities, dependent care obligations or other limitations beyond their reasonable control, then the Police Chief shall cause the graffiti to be abated without cost to the owner, and no lien shall be placed on the homestead property. The operation of this subsection is limited to any single family residential property that is occupied as a homestead.
- (3) If an owner demonstrates that (i) the property for which the owner has been given notice of graffiti hereunder has been the subject of at least two (2) prior graffiti incidents (evidenced by either notices provided pursuant to this article or bona fide police reports) during the preceding one hundred eighty (180) days, and (ii) the owner complied with the requirements of this article by abating the prior graffiti within thirty (30) days of the date of the applicable notice or police report, then the Police Chief shall cause the graffiti to be abated without cost to the owner, and no lien shall be placed on the property.

(F) **Graffiti abatement—Private property consent forms.** Property owners in the City may consent in advance to City entry onto private property for graffiti removal purposes. The City will make forms for such consent available at the *Public works Department*.

(G) **Graffiti abatement—Public property.** Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorize only after securing the consent of an authorized representative of the public entity having jurisdiction over the structure.

(H) **Graffiti abatement—Reimbursement.**

(1) After the graffiti has been abated, the Police Chief shall assess the costs of such removal against the property owner. Notice, service of which shall be as provided for in paragraph (B)(3)(c) above, stating the cost to the City or other person or entity to clean the property, including labor costs, administrative costs of inspection and re-inspection, transportation expenses and a reasonable allowance for use of equipment and materials, shall be sent in writing to the owner by the Police Chief to the finance department. The notice shall request payment to the City within thirty (30) days of receipt by the owner. The costs for removal shall constitute a lien on the property payable within such thirty-day period and thereafter bearing the then judicial approved rate of interest per annum until the debt is paid.

(2) The Police Chief shall determine the actual cost of the graffiti removal and abating the public nuisance, and declare the amount, plus the cost of recording the lien. A copy of the notice, including the statement of expenses, authenticated by the acknowledgment of the City secretary, shall be filed for record in the office of the county clerk.

REGULATION OF LIGHTING

Sec. 12-23 Definitions.

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

Full Cutoff (FCO) – describes a luminaire light distribution where 100 candela per 1000 lamp lumens (10%) may emit at all vertical angles beginning at 80 degrees up from nadir to less than 90 degrees, and zero candela per 1000 lamp lumens (0%) is allowed at 90 degrees (horizontal plane) and all angles above. This applies to all horizontal angles around the luminaire. A full cutoff luminaire is also fully shielded.

Fully shielded fixture means that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Illumination means an alternative term for illuminance. Commonly used in a qualitative or general sense to designate the act of illuminating or the state of being illuminated.

Lamp means the component of a luminaire that produces the actual light.

Light trespass means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen means a unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of these regulations, the lumen-output values shall be the initial lumen output ratings of a lamp.

Luminaire means this is a complete lighting system, and includes a lamp or lamps and a fixture.

Outdoor lighting means the nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Sec. 12-24 Lighting and glare standards.

A) Lighting limited. Any light fixture in any zoning district shall be operated so as not to produce an obnoxious and intense glare or direct illumination across the boundary property line, and shall not be of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of five feet. The allowable maximum intensity measured at the adjacent property shall be one (1) foot candle.

B) Outdoor lighting used to illuminate parking spaces, driveways, maneuvering areas, or buildings shall conform to the definition for "fully shielded light fixtures" and be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets. No portion of the bulb or direct lamp image may be visible beyond a distance equal to or greater than twice the mounting height of the fixture. For example, for a fixture with a mounting height of 12 feet, no portion of the bulb or direct lamp image may be visible from 24 feet away in any direction. Light poles or wall-mounted fixtures shall be full-cutoff fixtures only. All perimeter fixtures shall possess house-side shielding; bollards shall be louvered and utilize coated lamps.

C) Setback or shielding requirements. Outdoor lighting fixtures are allowed with no additional

"house-side" shielding in accordance with the following formula:

Height (H) $\leq 3 + (D/3)$; where D equals the distance in feet from light source to the nearest residential lot line (extended vertically). Additional "house-side" shielding shall be added in all cases where the Height (H) is greater than $3 + (D/3)$.

Sec 12-25 Residential lighting and glare standards.

Residential lighting for security and night recreation use is permitted in all districts provided the following requirements are required for residential lighting in all zoning districts, to wit:

- (1) Direct lighting over ten feet in height must be shielded from adjacent property.
 - (2) Streetlights and other traffic safety lighting are exempt from this standard.
 - (3) Lighting shall not directly shine on adjacent dwellings.
- (Ord 12-05)

Sec. 12-26 Luminaries.

Light sources shall be of a down-light type, indirect, diffused, or shielded type luminaires installed and maintained so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Strings of bulbs and/or lamps above 75 watts each are prohibited. Low wattage temporary lighting used for holidays and decorative seasons is permitted.

Sec. 12-27 Special or temporary lighting-low wattage.

Bare bulbs or strings of lamps are prohibited, except during holidays. Special lighting shall be permitted for a maximum time period of 60 days for each holiday use and must be removed between holiday periods.

Sec. 12-28 Exemptions

This Ordinance [Article IV] does not apply to lighting in the public right of way that the City has caused to be installed, traffic lights or temporary emergency lighting.

Sec. 12-29 Unlawful noncompliance: Penalties for Violation.

The violation of the lighting standards provided by this Ordinance is declared a nuisance and It shall be unlawful for the owner or tenant within the city to fail to comply with the standards set forth in this Ordinance within 15 days after notice is mailed or published, directing that such standards be met and if they are not met, any person affected by a violation of this Article IV, the code compliance officer, police department or any other individual assigned such duties may, whenever a violation is found, file a complaint with the municipal court and/or issue citations; and the prosecutor of the municipal court assigned such duties shall prosecute the case, and upon conviction for violation of this Ordinance the violator shall be fined in accordance with the following:

A) Any person, firm, partnership or corporation who violates any provision of this Article IV shall be guilty of a Class "C" Misdemeanor and upon conviction thereof shall be fined an amount not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day that violation is permitted to exist shall constitute a separate offense.

B) It is hereby declared that the culpable mental state required by Chapter 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with, and such offense is declared to be a strict liability offense.

Regulation of Plastic Bags

Sec. 12-30. Definitions:

A. Business establishment means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, corporations or any other legal entity whether for profit or not for profit and includes all employees of the business and any independent contractors associated with the business.

B. Checkout bag means a bag that is provided by a business establishment to a customer typically at the point of sale for the purpose of transporting goods after shopping.

C. "Affected retail establishment" means any retail establishment, temporary vendor and restaurants, located within the geographical limits of the City of South Padre Island.

D. "Compostable bag" means a carry out bag that is certified and labeled as meeting the current ASTM-Standard Specification for compostability by a recognized verification entity such as the Biodegradable Product Institute and which can be easily differentiated, through color coding and other markings, from non-compostable plastic carry-out bags.

E. "Plastic carryout bag" means a non-compostable plastic bag provided by a store to a customer at the point of sale for the purpose of transporting goods after shopping, and which is intended and constructed for single use.

F. "Recyclable Paper Bag" means a paper carryout bag provided by an affected retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and meets all of the following requirements:

- (1) contains no old growth fiber
- (2) is 100% recyclable
- (3) contains a minimum of 40% post-consumer recycled content, and
- (4) displays the words "Reusable" and/or "Recyclable" and/or the universal recycling symbol which is an internationally recognized symbol used to designate recyclable materials in a highly visible manner on the outside of the bag or
- (5) provide documentation to show that the point of sale bags meet or exceeds the first 3 requirements.

G. "Reusable Bag" means a bag that is specifically designed and manufactured for multiple reuse and is

- (1) made of cloth or other fabric, or
- (2) made of other durable material suitable for re-use.

Sec. 12-30.1. Prohibitions and Requirements.

(A) Affected retail establishments are prohibited from providing Plastic Carry-out Bags to their customers at the point of sale. Reusable bags, recyclable paper bags, and compostable plastic bags are allowed alternatives.

(B) No person shall distribute Plastic Carry-Out Bags at any City sponsored event, City facility or any event held on City property.

(C) Affected retail establishments are strongly encouraged to provide incentives for the use of reusable bags through the use of education and credits, rebates, or tokens for individuals who bring reusable bags.

(D) Nothing in this section shall be read to preclude affected retail establishments from making reusable, compostable, or recyclable paper bags available for sale or free to customers.

Sec. 12-30.2 Implementation of a Voluntary Ban on Plastic Checkout Bags beginning on February 1, 2011 to December 31, 2011.

The entire city will promote a voluntary ban of plastic checkout bags throughout the city in preparation for the mandatory ban of plastic checkout bags to begin on January 1, 2012.

Sec. 12-30.3 Scope and applicability

(A) Business establishments shall only provide compostable plastic and compostable paper checkout bags as of January 1, 2012. They may also provide reusable bags as checkout bags to their customers with or without charge, except as indicated in Section (B), below.

(B) The following items are exempt from this Chapter:

1. Paper bags provided by restaurants for food carry-out purposes;
2. Paper Bags provided by pharmaceutical departments of businesses. Or by veterinarians, for the purpose of containing medications or other prescriptions, or other medical necessities provided by said pharmacies or veterinarians;
3. Paper bags provided for the containment of carry-out beverages
4. Paper bags commonly provided for liquor sales;
5. Garment or laundry bags made from any material;
6. Plastic bags provided to effect food safety for a purchaser of food by preventing contamination from any cooked, chilled or frozen food purchased.

Chapter 13

PEDDLERS, SOLICITORS, ITINERANT VENDORS, DISPLAYS OF MERCHANDISE OUTDOORS AND ON BEACH, SPECIAL EVENT PERMITS

Sec.13-1 to Sec. 13-14 was repealed.(Ord. 147, 2-20-91)

Sec.13-15 Outdoor displays--Regulations and Requirements.

Outdoor displays are prohibited except as permitted by Chapter 20 [Zoning] of the Code of Ordinances.

Sec.13-16 Retail sales--sewer facilities required.

It shall be unlawful for any person to conduct any retail sales activity whereby they solicit the general public's patronage unless the same provides sanitary sewer facilities for both men and women upon the property from which said business is conducted. (Ord. No. 79, 5-7-80)

Sec.13-17 Beaches--Peddlers, commercial activity prohibited thereon.

All peddlers, vendors and other commercial activity where people are contacted on the public beaches is hereby prohibited and no person may solicit or sell to people located on the public beaches within the City. (Ord. No. 82, 8-6-80)

Sec. 13-17.1 Food and beverage service to people on the Public Beach abutting the property

Beach front properties that hold a food establishment permit issued by the City may serve food and beverage to people on the public beach that abuts the property but such service may not impair the public's right to use the public beach and such service will not be in violation of Sec 13-17.

Sec.13-18 Right-of-Ways---Commercial Activity Prohibited Thereon.

No person or entity may conduct any type of solicitation or commercial activity within the public right-of-ways of the City of South Padre Island nor shall leaflets, handouts, bills or other devices be placed upon cars without the owner's permission or in such a manner that the same will blow from the car and constitute litter within the City. Charitable solicitations may be exempted by the City Council from this Section upon application thereof and proof that the same will not be disruptive or be conducted in such a manner as to offend people or property. (Ord 114)

Sec.13-19 Vacant Property-Prohibition of Business and Commercial Activity Thereon.

It shall be unlawful for any person or entity to conduct any business or commercial activity upon or from unimproved vacant property within the City. No business or commercial use may be conducted from any property that doesn't have permanent improvements, parking, sanitation, and meet other requirements of the Building and Zoning Codes of the City. (Ord. 114)

Sec.13-20 Vehicles --- Prohibition of Business Activity Thereon.

It shall be unlawful for any person or entity to conduct business, store merchandise or goods, or to conduct any other business operation from a vehicle within the City. Service and delivery vehicles are specifically excluded from the provision of this Ordinance. (Ord. No. 127)

Sec. 13-21. Special Event Permits --Regulations.

The City Council or the City Manager may designate a Special Events period [length of time] and permits may be granted during such period for setting up temporary outdoor facilities both on beachfront properties and seaward of the City's building line established by the Attorney General of Texas. These permits shall be granted with special conditions and requirements as the City Manager or his designee may believe is necessary to preserve the public beaches and the general health and safety of the users thereof. Any person desiring to set up any type of temporary facility during the Special Event period on the beach shall comply with the following:

- a) No facilities or fixtures may be set up in a manner to destroy dunes and/or vegetation.
- b) No outdoor facilities or fixtures may be set up that impair public access to the beach or use of the public beach.
- c) Any applicant obtaining Special Event permit will provide whatever sanitary facilities that the City believes are reasonably necessary as a result of the number of people being attracted to the Special Event Activities.
- d) The permit will specifically describe the facilities being set up and what will be left in place overnight and shall comply with all requirements of the Building Department that pertain to safe installations. Any application for permit must either be signed by the beachfront property owner or have a letter of consent from the beachfront property owner for the applicant seeking the permit.
- e) The initial fee for any Special Event beach activity permit shall be Two Hundred Fifty Dollars (\$250.00) and the City Council by Resolution may change this fee. The permit is only valid for the specific Special Events period [length of time] and not for any other Special Events period. Each Special Events period requires a separate permit.
- f) No sales of any nature may take place on the beach (seaward of the AG building line). [Ord 01-02]

Sec. 13-22. Permits for Temporary Parking for Special Events.

The City Council or the City Manager has designated up to four weeks to be known as the Spring Break Special Events period and may also designate any other special events period wherein the City experiences high automobile traffic. For the Special Events permits may be issued by the City for temporary parking facilities. These permits may be granted with special provisions and requirements that the City Manager or his designee may deem necessary to preserve the health and safety of the users and of the neighborhood where said temporary parking is located. Any person or entity desiring to have temporary parking facilities shall comply with the following:

- a) Obtain a permit issued by the City with an initial fee of One Hundred Dollars (\$100.00) and the City Council by Resolution may change this fee.
- b) The permit must specifically describe in writing where the temporary parking facilities will be located.
- c) The parking area is not required to be paved but it must have a surface that will not allow vehicles to become stuck or encroach in any wetlands.
- d) The City Manager or his designee may require that the parking area be fenced with appropriate entrances and exit gates in order to allow for the orderly entrance and exit of traffic to the public streets.
- e) The permit may require that the permit holder provide security, as well as sanitation facilities for the area. No type of business activity may be conducted on or from the permitted parking area other than parking for a fee.
- f) No permit may be issued for a temporary parking facility in any district that has been zoned "A" (Single-family dwelling District) or "E" (Low Density Residential District).

Sec. 13-22.1 Special Event Permit (not Spring Break)

A Special Event (not during Spring Break) shall mean an event recommended by the City of South Padre Island Convention & Visitors Authority and approved by the City Council of the City or the City Manager. Any organizer or organization seeking status as a Special Event must comply with the following requirements to obtain a permit, to-wit:

- A) The organizer or organization seeking status as a South Padre Island Special Event must demonstrate that the event is likely to generate a verifiable number of lodging rooms on South Padre Island, demonstrate a need for the Special Event during the time of year requested and demonstrate a potential for growth of this Special Event. Any City services that will be needed to support the event must be stated.
- B) If the organizer or organization sponsoring this Special Event is seeking funding from the Convention & Visitors Authority, they must first submit their application to the Special Event Committee, with final approval of funding from the Convention & Visitors Authority Board of Directors.
- C) All organizers or organizations seeking to hold a Special Event must file an event and site plan which address issues of security, health, litter control and parking.
- D) A permitted Special Event may also include vending and/or sales to the attendees of the event within the defined space of the event including the beach area if the event requests such activity. Health and sanitation codes will be applicable.
- E) The defined space of the Special Event may not in any manner destroy dunes and/or vegetation or impair public beach accesses and use of the public beach.
- F) A permitted Special Event may be located on unimproved property if it has the written permission of the property owner and consent of any adjacent property owner occupant (improved property) as long as the property is located within a District zoned for such activity.
- G) Any proposed temporary signage must be from the sponsor(s) of the event or represent the event itself and may contain the name of the event and/or its sponsor. Provisions of the City ordinances pertaining to signs is not applicable, but such temporary signage must be approved during the permit process and included in the permit.
- H) Any applicant obtaining a Special Event permit shall provide whatever parking and sanitary facilities that the City officials believe are reasonably necessary as a result of the number of people being attracted to this Special Event. The permit will specifically describe the facilities being set up and what will be left in place overnight and shall comply with all requirements of the Building Department that pertain to safe installations.
- I) Storage of merchandise or other items for the Special Event may be authorized by the permit so long that such storage does not create a health hazard or a negative impact on the event site itself.
- J) If the Special Event is going to use part of the parking area of an existing site, the fact that it reduces the required parking will not be a violation of the City ordinances. The event site plan must address the parking needs of the event.
- K) The Special Event may utilize the provision of Section 13-22 for temporary parking.
- L) No permit may be issued for property that is located either in District Zone "A" (Single-family Dwelling District) or District "E" (Low Density Residential District).
- M) Any activity authorized by the permit for the Special Event shall not be a violation of any other ordinance, rule or provision of the City of South Padre Island Code of Ordinances.
- N) The initial fee for any Special Event permit shall be as provided by Sec.2-75. The City Council by Resolution may change this fee. The permit is only valid for the specific Special Event for length of time provided in the permit and not for any other Special Events. Each Special Event requires a separate permit. The Special Event permit will be issued by the City Manager or his/her designee

Sec. 13-22.2. Permits for Temporary Parking Facilities in the Entertainment District.

During the summer (Friday before Memorial day to the day after Labor day) permits may be issued by the City for temporary parking facilities in the Entertainment District. These

permits may be granted with special provisions and requirements that the City Manager or his/her designee may deem necessary to preserve the health and safety of the users and of the neighborhood where said temporary parking is located. Any person or entity desiring to have temporary parking facilities shall comply with the following:

- a) Obtain a permit issued by the City with an initial fee as provided by Sec.2-75 and the City Council by Resolution may change this fee.
- b) The permit must specifically describe in writing where the temporary parking facilities will be located.
- c) The parking area is not required to be paved but it must have a surface that will not allow vehicles to become stuck or encroach in any wetlands.
- d) The City Manager or her/his designee may require that the parking area be fenced with appropriate entrances and exit gates in order to allow for the orderly entrance and exit of traffic to the public streets.
- e) The permit may require that the permit holder provide security, as well as sanitation facilities for the area. No type of business activity may be conducted on or from the permitted parking area other than parking for a fee.

Sec. 13-22.3. Permits for Temporary Parking Facilities in the Business District.

During the summer (Friday before Memorial day to the day after Labor day) permits may be issued by the City for temporary parking facilities in the Business District "C". These permits may be granted with special provisions and requirements that the City Manager or his/her designee may deem necessary to preserve the health and safety of the users and of the neighborhood where said temporary parking is located. Any person or entity desiring to have temporary parking facilities shall comply with the following:

- a) Obtain a permit issued by the City with an initial fee as provided by Sec.2-75 and the City Council by Resolution may change this fee.
- b) The permit must specifically describe in writing where the temporary parking facilities will be located.
- c) The parking area is not required to be paved but it must have a surface that will not allow vehicles to become stuck or encroach in any wetlands.
- d) The City Manager or her/his designee may require that the parking area be fenced with appropriate entrances and exit gates in order to allow for the orderly entrance and exit of traffic to the public streets.
- e) The permit may require that the permit holder provide security, as well as sanitation facilities for the area. No type of business activity may be conducted on or from the permitted parking area other than parking for a fee.

Sec. 13-22.4. EVENT PERMIT- NOTICE.

1) Definitions.

A. Event. A gathering on private or public property, that is not a part of the regular course of business, and that attracts or is expected to attract more than 1500 persons.

B. Promoter means a person who promotes an Event, and may or may not include the owner.

C. Owner is the person who owns the private property on which an Event is held.

D. Regular Course of Business means an Event that occurs at least twelve (12) times or more a year on that owner's property.

2) Requirements: Permit and Notification Form

To hold an Event that has not otherwise been permitted by the City, the Promoter or Owner shall:

- A. Obtain a permit issued by the City with an initial fee of \$25.
- B. Complete and submit Event Notification Form four (4) weeks before the scheduled date of the proposed event to allow adequate preparation time by the City; however, this time frame may be waived by the City Manager or its designee. The applicant may submit and pay electronically **or** pay and file one original hard copy with four (4) copies of the Form with the City, which will thereafter be distributed to the appropriate departments.
- C. The Form shall contain, at minimum, the following, and may be amended accordingly:
 - 1) Venue name and address
 - 2) Date(s) of Event
 - 3) Name and Cell phone numbers:
 - (a) Owner
 - (b) Promoter
 - (c) On-duty security officer and their supervisor's name/agency/contact information
 - (d) On-site Event Contact person
 - 4) Type of Event
 - 5) Event Company Name
 - 6) Number of expected Attendees
 - 7) Number of planned Staff Personnel on site at time of Event
 - 8) City Services requested (list in detail)
 - 9) Owner's consent to Event
 - 10) Site Plan

3) Process after application. Within 10 working days of receipt of the completed Notification Form, a permit will be issued and the appropriate City designee will communicate with the Owner or Promoter in order to coordinate and ensure maximum safety for both visitors and residents during the Event.

4) Responsibility. The property owner and promoter are presumed to have consented to all of the conduct on their property and are both liable for violations.

Sec. 13-23 Prohibition of shade devices on the public beach between 10 P.M. and 9 A.M.

All shade devices or other physical device placed in the area of the beach subject to the public use easement may not be erected or placed in the beach area prior to 9 A.M. and must be removed by 10 P.M.. Any shade devices or other physical device placed in the area of the beach subject to the public use easement that remains in the beach area between 10 P.M. and 9 A.M. will be removed. There is exempt from this provision (Sec. 13-23) any shade device, other physical device or structure that holds a valid permit from the City. [Ord No. 02-04 & 13-10]

Sec. 13-23.1 Shade Device setup before 9 A.M.

No person or entity may place Shade Devices of any kind prior to 9 AM on any portion of the public beach within the City of South Padre Island located seaward of the Historical Building Line without obtaining a permit from the City as provided for by this Section 13-23.1, and comply with all provisions of this section, to-wit:

- A. The individual, organizer or organization seeking to install a shade device prior to 9 AM must demonstrate a need for such in writing.

- B. All organizers or organizations seeking a Shade Device Permit must file a site plan which addresses issues of security, health, litter control, parking, and unrestricted public beach access.
- C. The defined space of the Shade Device may not in any manner destroy dunes and/or vegetation or impair public beach accesses and use of the public beach.
- D. Any activity authorized by the permit for the Shade Device shall not be a violation of any other ordinance, rule or provision of the City of South Padre Island Code of Ordinances.
- E. The permit is only valid for the specific Shade Device for length of time provided in the permit and not for any other Shade Device. Each Shade Device requires a separate permit. The Shade Device permit will be issued by the City Manager or his/her designee.
- F. The times when the shade device(s) are to be set-up and taken down (which must be taken down by 10 PM).
- G. All permitted equipment must have attached the following:
- the name of the permit holder
 - address and phone number of permit holder
 - the permit number
- H. No Shade Device or other equipment may be set up in public beach access areas or any portion of the platted right-of-way, including cul-de-sacs, whether improved or not.

Sec. 13-23.2 Not to conflict with Sec. 13-24

Any and all permit holders issued pursuant to Sec.13-24 of this Chapter are not allowed to be issued a permit for Sec. 13-23.1.

Sec. 13-23.3 High winds and severe weather

Generally, all unattended shade devices under this section shall be secured against high wind and intrusion. However, because the community can be subject to high winds and severe weather on a random basis, the City reserves the right to suspend all shade device permits at any time, and require the immediate removal of all such shade devices.

Sec. 13-24 Regulation of Shade Devices and Chairs on the Public Beach

No person or entity may place shade devices, chairs or other physical devices for rent or use by third parties on any portion of the beach within the City of South Padre Island located seaward of the Historical Building Line without obtaining a permit from the City as provided for by this Section 13-24, and comply with all provisions of this section, to-wit:

- A) Any chairs/umbrellas set up (a "set-up" is two chairs with an umbrella between the chairs) and not occupied or rented may not exceed Ten Percent (10%) of the property frontage on the beach (i.e. 100' frontage = 10 set-ups or 20 chairs with 10 umbrellas). When the total number of chairs with umbrellas (set-ups) exceeds 25% of the property frontage, there may be no more unoccupied or unrented chairs with umbrellas (set-ups) set upon the property.
- B) All chairs and umbrellas must be marked or tagged to identify the permit holder.
- C) No chairs, umbrellas or other equipment may be set up in public beach access areas or any portion of the platted right-of-way, including cul-de-sacs, whether improved or not.
- D) No chairs or umbrellas may be set up in violation of Section 13-23 of the Code of Ordinances.
- E) Damage to dunes is prohibited. All equipment must be removed whenever a hurricane warning is issued for South Padre Island or in the event of extreme high tides. All equipment must be secured to prevent movement by high winds or water.
- F) Neither the permit holder nor their agents or employees may offer or sell any other product or services on the public beach other than the rentals of chairs and umbrellas and tickets for

water activities and sky diving. Payment for the use of the chairs and umbrellas and tickets may be made on the beach area for which the Applicant holds a permit.

- G) All employees or agents of the permit holder must wear an easily readable identification tag or badge with their name and the name of the permit holder.
- H) All permit holders that charge for rentals must hold a valid Texas sales tax number.
- I) All permit holders must provide proof of liability insurance in the amount of \$100,000.00 per person and \$500,000.00 per event.
- J) Applications for permits under this section must be applied for by the littoral property owner and signed by the Chief Executive Officer (i.e. President or Chairman of the Board of Directors) if the Applicant is an entity or the individual owner(s). Littoral owner(s) may designate an agent or licensee as the Agent to conduct chairs/umbrellas rentals on the beach area of the littoral owner. The permit will be valid only for the beach area appurtenant to the littoral owners property. A separate permit must be obtained for each separate property location.
- K) The City will provide appropriate application forms and once the same is completely filled out, a permit may be issued that will be valid from the date of issuance until October 1, 2012 following its issuance and all permits will be for one (1) year or less and will expire on October 1 of each year unless renewed. The permit fee shall be as provided by the Fee Schedule for City Services (Sec.2-75, Code of Ordinances).
- L) Any permit holder that violates any of the terms and requirements of this Section may have their permit canceled by the City Manager. Any permit holder may appeal the cancellation within Ten (10) days from Notice of Termination to the City Council. The City Council's decision is final. [Ord 07-06, 07-06A]
- M) All permit holders will assist the City by sharing the responsibility of maintaining their permitted area set up with chairs and/or umbrellas clear of litter while in service. [Ord 10-08]

Not engaged in commercial activity permit

- N) Any permit holder (comply with 13- 24 J) that is not engaged in commercial activity (does not offer the chairs or umbrellas for rent) and only places shade devices or chairs for use by the littoral property owners, lessees or renters of the beach front property may place shade devices or chairs (set-ups) only if requested to do so by property owners, lessees or renters of said beach front property and must provide supporting documentation of said request including name of individual. The shade devices or chairs ("set-ups") are limited to the number of units located at said beach front property. The provisions of this Sec 13-24 A, G and H do not apply to permits issued per this subsection N.

Less than five (5) units in the property

- O) Any existing permit holder for other property may place shade devices or chairs only if requested to do so by property owners, lessees or renters of said beach front property with less than five (5) units in the property and must provide supporting documentation of said request including name of individual occupying the beach front property, may do so with out a separate permit for that property. May only provide set-ups for the occupant(s) of that beach front property.

Chapter 14

PROPERTY

ARTICLE I. PERSONAL PROPERTY

Sec.14-1 Unclaimed or abandoned personal property to be sold.

All unclaimed or abandoned personal property of every kind except abandoned motor vehicles, whiskey, wine, beer, junked motor vehicles, gambling paraphernalia or prohibited weapons seized by any law enforcement officer or official of this City which is not held as evidence to be used in any pending case and has not been ordered to be returned to the person entitled to possession of the same by a magistrate, and which shall remain unclaimed for a period of thirty (30) days, shall be delivered to the Chief of Police for the City or the City Manager for sale as herein provided. (Ord. No. 64, 8-17-78)

Sec.14-2 Notice to owners of property.

The City official who has received said property shall cause a notice to be mailed to the last known address of the owner by certified mail. Such notice shall describe the property being held, give the name and address of the official holding such property and shall state that if the owner shall not claim said property within one hundred twenty (120) days from date of the notice, such property will be sold at public auction and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the cost of the sale, shall be placed in the City's General Fund. (Ord. No. 64, 8-17-78)

Sec.14-3 Publication of notice if owner or address of owner unknown.

If the owner of such property is unknown or if the address of the owner is unknown, then the City official in possession of said property will cause to be published once in the newspaper a notice containing a description of the property held, the name of the owner, if known, the name and address of the official holding such property, and a statement that if the owner does not claim property within 120 days from date of the publication, such property may be sold and the proceeds disposed of in the manner herein provided. (Ord. No. 64, 8-17-78)

Sec.14-4 Public auction of property and notice thereof.

After all required notices of Sections 14-2 and 14-3 have been satisfied, there shall be conducted a public auction at such place and time as may be designated by the City official in charge of said property, and at least three weeks prior to the date of said sale, there shall be published at least once in the newspaper notice of said sale designating the date and place that said sale will occur and the name of the owner if known. (Ord. No. 64, 8-17-78)

Sec.14-5 Conduct of public auction.

The sale as herein provided shall be conducted as other public auctions, and the City Official may reject any and all bids that he may deem improper and inadequate and may require

that the successful bidder deliver cash or certified funds by 5:00 P.M. of the day of sale or declare the sale void. (Ord. No. 64, 8-17-78)

Sec.14-6 No warranty as to goods sold; receipt to purchaser.

All property sold pursuant to this Chapter shall be sold in "as is, where is" condition and there shall be no warranty of any nature made by the City. The official conducting the sale shall deliver an appropriate receipt to the successful bidder and the receipt shall constitute evidence of transfer for the successful bidder. (Ord. No. 64, 8-17-78)

Sec.14-7 Real owner's right to claim proceeds of sale; suit for proceeds.

The real owner of any property sold pursuant to this Article shall have a right to file a claim to the net proceeds of sale with the City Council. If the Board allows the claim, the City shall pay the owner such net funds as were paid into the general fund of the City as the net proceeds of sale. If the claim is denied by the Board or if they fail to act upon the same within ninety (90) days, the claimant may sue the City in a court of competent jurisdiction in the county and upon sufficient proof of ownership recover judgment against the City for an amount not to exceed net proceeds of the sale for the property claimed. Ord. No. 64, 8-17-78)

**ARTICLE II.
REAL PROPERTY**

Sec.14-8 Erosion of property declared hazard.

If any portion of the land located within the boundaries of the City according to the mapped and platted subdivisions or un-subdivided portions thereof, is eroded as the result of natural causes and said erosion causes the removal of land from a platted and/or mapped property located within the City, then, and in that event, said erosion is declared to be a hazard to the City and surrounding properties which requires restoration as hereafter provided. (Ord. No. 72, 6-6-79)

Sec.14-9 Restoration of eroded property by owner required.

Any property located within the City that has been eroded as the result of natural causes must be restored by the lawful owner of said property at least to its natural elevation prior to said erosion or other natural catastrophe. Any person whose property is so eroded by natural forces shall restore his property by the use of fill or other materials until said eroded area is restored to an elevation at least equal to the surrounding property. Said property owner shall only be required to restore that portion of the property that is located within the legal boundaries of the City of the platted boundaries of said property according to the map and/or plat records thereof recorded in the Deed records of the county or to the Boyles survey line, whichever line is more inland. (Ord. No. 72, 6-6-79)

Sec.14-10 Owner not required to restore if title disputed.

No property owner shall be required to restore any property to which the title thereof is disputed by any lawful authority. It shall be a defense under this Article for any person accused

of violating the same if it should be established that such person does not have lawful title to the area required to be restored. (Ord. No. 72, 6-6-79)

Sec.14-11 Notice to owner of erosion; unlawful not to commence correction within 20 days.

Whenever any erosion of the nature described in this Article is found to exist on any property within the City, the owner of such property shall be notified by the City, in writing, to commence correcting or remedying the erosion within twenty (20) days after such notice and said owner shall diligently pursue the correction and/or remedying of said erosion and it shall be unlawful for any person to fail to comply with such notice. (Ord. No. 72, 6-6-79)

Sec.14-12 Service of notice upon owner; publication.

The notice provided for by this Article shall be served personally on the owner to whom it is directed or shall be served by letter addressed to such owner at last known post office address according to the tax records of the tax assessor for the City. In the event personal service cannot be made and the owner's address is unknown, such notice shall be given by publication at least two times within fourteen (14) consecutive days in the newspaper. (Ord. No. 72, 6-6-79)

Sec.14-13 Wreckage and debris to be removed.

Within four months following the cause of damage, wreckage and/or debris resulting from hurricanes, windstorms, high water, wave action or storm damage shall be cleared up and removed from all property to prevent littering the surrounding area. Failure to clean the premises is hereby declared a nuisance and shall be abated accordingly. (Ord. No. &77, 11-7-79)

Chapter 15

SIGNS

Sec.15-1 Purpose.

The purposes of these sign regulations are to encourage the effective use of signs as a means of communication in the City of South Padre Island, Texas to maintain and enhance the aesthetic environment and South Padre Island's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effects of signs on nearby public and private property; and to enable the fair and consistent enforcement of community standards. These regulations are aimed at achieving the goals, objectives, and policies enumerated in South Padre Island Plan 2010. This Ordinance is adopted pursuant to Chapter 216, of the Texas Local Government Code.

Sec.15-1.1 Review-Amendment.

In order to carry out the purpose of this Chapter the City Council in 1996 appointed an Ad Hoc Sign Ordinance Review Committee which made recommendations to the City Council and which amendments were passed. The City Council do not wish to consider further amendments to this Chapter without recommendations from an appropriate citizen committee such as the Ad Hoc Sign Ordinance Review Committee. The City Council may appoint an Ad Hoc Sign Ordinance Review Committee every three years to review this Chapter and the City Council will review said recommendations prior to amending this Chapter.

Sec. 15-1.2 Provisions of this Chapter apply to ETJ.

All provisions of this Chapter 15 (sign regulatory ordinances) that regulate outdoor signs shall apply within the area of the extraterritorial jurisdiction of this city as defined by Chapter 42 of the Texas Local Government Code. [Ord 10-09]

Sec.15-2 Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- (1) Abandoned Sign: A sign which no longer correctly directs or exhorts any person, advertises a bona fide business or service provided, lessor, owner, project, activity conducted, or product available on the premises where the sign is displayed. (A temporary closing of a business, not to exceed 90 days, shall not be considered an abandoned sign.)
- (2) Airborne Sign: A sign on a balloon, flag, pennant, or inflatable sign.
- (3) Altered: A change of copy, logo, or other means in which the message is changed or enlarged, changing shape or location.
- (4) Animated Sign: Any sign which includes action or motion.
- (4.1) Art in Public Spaces: Art located in places easily seen by the public but which has no direct commercial connection to the structure or location in which this art is located. Reviewed and approved by the Development Standards Review Task Force on a case by case basis.
- (5) Average Grade: The grade of the finished ground level at the midpoint of each exterior surface of a sign, or a structure, in the event that the sign is attached to the structure. The height of a sign shall be computed as the distance from the base of the sign at

normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filing, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure of the zone lot, whichever is lower.

- (6) Banner: A temporary sign made of fabric, plastic, paper, or other light, pliable, or non-rigid material, not enclosed in a rigid frame (not including a "fabric sign" as defined herein).
- (7) Billboard: Any sign that is freestanding or attached to or part of a building and is an off-premise sign.
- (8) Building Face or Wall: All window and wall area of a building in one plane or elevation.
- (9) Business Information Sign: A sign that is permanently and professionally attached to a door or window at the entrance of a business that contains information that may include the Business Name, Address, Phone Numbers, Hours of Operation, and Trade Associations the Business is a member of, e.g. FDIC, SBA, etc. All of the information must be located within the maximum Area of Sign for Business Information Sign as defined in Table 15-1. A Business Information Sign is not a Window Sign or a Wall Sign. [Ord 05-13]
- (10) Canopy: Any structure attached to a building at the inner end or a free-standing structure, with one or more supports, meant to provide shelter from the weather.
- (11) Changeable Copy Sign (Manual): A sign on which copy is changed manually in the field, i.e., reader boards with changeable letters or changeable pictorial panels.
- (12) Changeable Copy Sign (Automatic): A sign such as an electronically or electrically controlled public service time, temperature and date sign, message center, or reader board where different copy changes are shown on the same lamp bank.
- (13) Charitable Project or Benefit: Proceeds must be for a qualified 501C entity pursuant to the Internal Revenue Code.
- (13.1) Commercial Art: Art on commercially-used structures which draws attention from the ROW and which identifies or advertises a product or business. Since this type of art is intentionally located and chosen to draw attention to the store and/or store products, the square footage of the art will be counted towards maximum signage area requirements.
- (14) Commercial Sign: A sign other than a real estate "For Sale" or "For Lease" sign, "Open House" sign, political sign, residential nameplate sign, public information sign, traffic control sign, temporary new business opening sign, or exempted sign, which directs the attention of the general public to a business, product, service, or other commercial or business activity.
- (15) Conforming Sign: Signs built and maintained in accordance with the terms of this Ordinance.
- (16) Contractor's Sign: A sign intended to identify a contractor or subcontractor on the site of a construction project where the contractor or subcontractor is conducting work.
- (17) Copy: The wording or graphics on a sign surface.
- (18) Erect. To build, construct, alter, reconstruct, pour, lay, move upon, attach, hang, place, suspend or affix, and also includes the painting of wall signs, murals or super graphics, or any physical operations on the premises which are required for the construction of a sign including excavation, site clearance, landfill and the like.

- (19) Fabric Sign: A sign made of fabric or other non-rigid material, enclosed in a permanent frame and erected as a permanent, on-site sign for a business, service, product, or person.
- (20) Facade: The front or main part of a building facing a street.
- (21) Face of Sign: The entire area of a sign on which copy could be placed. The area of a sign which is visible from one direction as projected on a plane.
- (22) Fine Art: Art, as reviewed and approved by the Development Standards Review Task Force which is created by a recognized artist and which is displayed in or on City of South Padre Island owned property.
- (23) Flashing Sign: Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an extremely mounted intermittent light source.
- (24) Freestanding Sign. Any sign which is not attached to or on the walls, face, or exterior of a building.
- (25) Future Project Development Signs: those temporary signs announcing a future business or development on the site which the sign is located. Future Project Development Signs should be allowed only on the site which the project will be located and for only one (1) year. After which time the owner may apply for an extension (but only one extension) of the sign permit for one (1) additional year, but only if the permit holder shows progress in the development of the site.
- (26) Grand Opening: The initial opening of an entirely new business.
- (27) Ground level: The immediate surrounding grade.
- (28) Height of Sign: The vertical distance measured from the surrounding grade to the highest point on the sign or sign structure.
- (29) High Rise Building: A structure of more than Six (6) stories in height.
- (30) Illegal Sign. Signs existing on the effective date of the adoption of this Ordinance which are not registered in accordance with the terms of Subsection 15-3A shall be categorized as illegal.
- (31) Image Sign. A two dimensional picture/poster used in lieu of models or actual merchandise displays, displayed through a window, and which has no wording other than trademark or brand name/brand logo. For example: portraits and brand name posters/product pictures portraying models wearing/using products; model wearing Nike swimming apparel or a model using a boogie board. *Ord 04-03; 3/17/04*
- (32) Indirect Lighting. A light source separated from the surface and illuminating the sign surface by means of spot lights or similar fixtures.
- (33) Joint Directory Sign: A sign which consists of a composite of several individual signs identifying the businesses located in a commercial or office complex.
- (34) Landscaping: For the purposes of this Ordinance, landscaping shall include any combination of shrubs, vines, hedge plantings, plants, trees or palms located in a planting area at the base of the sign. For the purposes of this ordinance, the term "landscaping" shall not mean solely turf or grass, or the total absence of vegetable matter.
- (35) Legally Non-Conforming: Signs existing on the effective date of the adoption of this Ordinance which are not in conformance with the Ordinance but which are registered with the Building Department in accordance with the terms of Section 15-3, shall be categorized as legally non-conforming.
- (36) Logo: A letter, character, or symbol used to represent a person, corporation, or business enterprise.

- (37) Lot: A parcel, tract, plot or area of land accessible by means of a street or other permanently reserved principal means of access. It may be a single parcel separately described in a deed or plat, or it may include parts of or a combination of such parcels when adjacent to one another and used as a whole.
- (38) Major Corporate Sponsor: The sponsor of a public event, listed on all advertising and other public promotions, resulting from the contribution of funds, equipment, products, and/or in-kind services to the event.
- (39) Marquee: Any permanent roof-like structure at the entry to a building, which projects beyond the building or extends along and projects beyond the wall of the building, and which generally contains a commercial message(s), and is designed to provide protection from the weather.
- (40) Minimum Sight Triangle: A triangular area bounded by the right-of-way lines of a corner lot and a line connecting the two points on the right-of-way lines measured twenty (20) feet from the point of intersection of the right-of-way lines. For ingress/egress points and private roads, the minimum sight triangle shall be determined using the intersection of the curb line or edge of pavement for the ingress/egress point or private road and the public right-of-way.
- (41) Monument Sign: A freestanding sign, other than a pole sign, which has a skirt, dressed base, or other means of enclosing the structural members which support the sign, and which skirting or dressing has been approved by the Development Standards Review Task Force base must equal at least Fifty Percent (50%) of sign width and not to exceed One Hundred Twenty Percent (120%) of the width of the sign for signs up to Eight (8) feet in height. For signs proposed to be taller than Eight (8) feet in height, the width of the of the approved skirting or dressing must equal a minimum of Fifty Percent (50%) of the sign width, but shall in no case exceed Four (4) feet in width. For the purposes of this Ordinance, the terms "skirting" and/or "dressing" shall mean the enclosing of the structural members which support the sign with materials such as decorative masonry, natural and decorative stone, masonry with a stucco finish, and decorative wood such as redwood or cedar when appropriately finished to prevent decay and discoloration; no skirting may be made from metal or plastic materials. No signage is permitted on the skirting except street address.
- (42) Multi-Pole, Single Pole Sign: A sign whose only structural support consists of exposed poles, posts, beams, or other devices mounted in the ground.
- (43) Office Complex/Multi-Tenant Shopping Center: Means Two (2) or more offices or stores sharing customer parking area, regardless of whether said offices or office establishments occupy separate structures or are under separate ownership.
- (44) Official Sign: Any sign erected by or at the direction of any governmental body.
- (45) Off-Premises Sign: Any sign other than an on-premise sign.
- (46) On-Premises Sign: A sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.
- (47) Owner: A person recorded as such on official records and including duly authorized agent, notary, purchaser, lessee, devisee, or judiciary; anyone having a vested or contingent interest in the property or business in question.
- (48) Painting: The application of paint in the course of normal maintenance which in no way shall alter the message or group of words or letters.
- (49) Parasite Sign: Any sign not exempted by the sign code, for which no permit has been issued, and which is hung from, attached to, or added onto an existing sign.

- (50) Permanent Multi-Family or Subdivision Identification Sign: A sign which designates the name of a project, subdivision, or other residential district, and which is located at or in close proximity to the main entrance.
- (51) Person: Any natural person, firm, partnership, association, corporation or organization of any kind.
- (52) Place of Business: One enclosed structure with a Certificate of Occupancy regardless of the number of commercial uses within. For the purposes of this ordinance regulating signage, each place of business must be separated from other places of business with non-penetrable walls in such a manner that the public must enter and/or exit the business through an exterior door. *Ord 04-03; 3/17/04*
- (53) Political Sign: Any sign which is designated to influence the action of voters for the passage or defeat of a measure appearing on the ballot in connection with any national, state or local election.
- (54) Portable Sign: Any sign not permanently affixed to a building, structure or the ground, and designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes. This definition includes, but is not limited to, A-frame signs, sandwich signs, curb signs, sail flag signs, feather flag signs and signs on trailers with or without wheels or on other vehicles which are primarily used as signs.
- (55) Premises: An area of land, with its appurtenances and buildings, which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.
- (56) Project Development Sign: A temporary sign for a commercial or multi-family tract during the construction of the proposed development which may identify a project under construction and includes the project's name and address, general contractor, architect, financing, and contact agent, with appropriate phone numbers. These signs should not be allowed until or unless the property owner receives a Building Permit for the site, and should be removed either immediately after receipt of the Certificate of Occupancy or immediately after the expiration or revocation of a Building Permit. (see also Future Project Development Sign)
- (57) Projecting Sign: A wall-mounted sign, erected in lieu of the permitted, free-standing monument sign, which projects from the face of a structure, meeting the following requirements:
 - (a) The sign shall be pinned away from the wall of the structure a minimum of six (6) inches.
 - (b) The sign shall not extend over any adjacent right-of-way or property line.
 - (c) Projecting signs shall be designed as an integral architectural element of the building to which it principally relates. The mounting brackets of such signs will be an integral part of the sign and complementary to the design of the sign. No projecting sign shall be entirely supported by an unbraced parapet wall.
 - (d) No unshielded lights will be permitted. All lighting fixtures shall be placed in such a way as they will not be struck or otherwise damaged by the sign in the event of high wind.
 - (e) Projecting signs shall be designed to meet the wind resistance requirements of Section 15-10.
- (58) Public Information Sign: Any sign or banner which is intended to identify community, civic and social events, special events, facilities, no-trespassing areas and is not a commercial sign or official sign as defined herein.
- (59) Reader Board: A sign that has changeable or removable lettering.

- (60) Real Estate "For Sale", "For Lease", or "Open House" Sign: A temporary sign designating that the premises upon which it is erected is for sale, rent, or lease or that an open house is being held on the day on which the sign is displayed.
- (61) Reflective Surface: Any material or device which has the effect of intensifying reflected light, including but not limited to scotch light, day glow, glass beads and luminous paint.
- (62) Required Signs: Any sign required by law for the protection of the general health, safety and welfare of the public. For the purposes of this Ordinance, numbers attached to the front plane of a facing and visible from the adjacent public right-of-way or private ingress/egress for the purpose of identifying the street address of the structure shall be considered a required sign. Such numbers shall be a minimum of four (4) inches in height, shall be of a color in distinct contrast to the color of the wall to which it is attached, and shall be plainly visible from the adjacent public right-of-way or private ingress/egress.
- (63) Residential Nameplate Sign: A sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house. The sign may contain no advertising of any kind.
- (64) Roof Line: The highest point of the coping on a flat roof, false mansard, or parapet wall; the deckline of a true mansard roof; the ridge line between the upper and lower slopes of a gambrel roof; or the mean height level between the eaves and the ridge of a gable or hip roof.
- (65) Roof Sign: A sign attached to, and wholly or partially dependent upon, the roof of a structure for support, or attached to the roof in any way, but not extending above the roof line, as defined by this Ordinance. Such signs will be completely enclosed between the sign and the corresponding roof, and shall be designed to meet the wind resistance requirements of Section 15-10.
- (66) Sign: Any thing of visual appearance primarily used for, or having the effect of, attracting attention from the streets, sidewalks, curbside or any other public areas including waterways for identification purposes, whether illuminated or non-illuminated. An identification logo, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, service, institution or business, whether illuminated or non-illuminated. For the purposes of removal, the definition of "sign" shall include all of the sign structure. For the purposes of this Ordinance, this definition shall also include paintings directly upon a building, other structure or vehicle and any manufacture incorporated or added to a building or property that is not a normal structural or architectural component of a building shall be considered a "sign" (i.e. to attract attention from public right-of-way) and must comply with all the commercial sign regulations of this Chapter pertaining to either a monument sign or a projecting sign. (*Ord. 02-14; Nov.20, 2002*) The basic intent behind this definition is not to discourage product displays, design, or art from epitomizing simplicity, good taste, and compatibility with the community's desired image.
- (67) Sign Area: The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall

otherwise meets zoning ordinance regulations and is clearly incidental to the display itself. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces. For buildings that are not on public rights-of-way and/or near to property boundaries (e.g. building structures on a pier), sign areas shall be calculated on the basis of the most visible building frontage.

- (68) Sign Structure: The sign and all parts associated with its construction.
- (69) Snipe Sign: A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, utility poles, stakes, or fences or to other objects, and whose message is not associated with the premises upon which such sign is located.
- (70) Suspended Sign: A sign, other than a parasite sign, that is suspended from and supported by the underside of an awning, a marquee, a fascia, an umbrella, or a building overhang.
- (71) Temporary Signage: A sign erected for a special purpose and for a specifically stated short term of duration, as regulated by Sections 15-6(G), 15-7, and 15-12. Temporary signage may include such otherwise prohibited forms of signage as portable signs [Section 15-5(E)] and banners [Section 15-5(F)].
- (72) Traffic Control Sign: A permitted sign for the purpose of identifying parking areas and directing the flow of traffic on private property.
- (73) Umbrella: A device, often round or square in shape that is supported by a center pole that provides shade or protection. For purposes of this article, any device, structure, canopy, etc. that is handheld, or that is totally or partially enclosed, or that projects from or is connected to a building shall not be deemed to be an umbrella.
- (74) Umbrella Sign: A sign that is painted, installed, or otherwise applied to or located directly on an umbrella at an establishment. The sign, which is a combination of letter and/or logo, height is limited to 8 inches. Signage may only be displayed on the flap of the umbrella that is maximum 8 feet in diameter and 8 feet in height. Umbrella that is larger than the size limit shall not have any signs on it. The copy on an umbrella sign is limited to the name and/or logo of a single appurtenant business/residential establishment. For purposes of this article, signs that are suspended from umbrellas (suspended signs) shall not be considered to be umbrella signs. Suspended signs are prohibited.
- (75) Wall Sign: A sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plan parallel to the face of the wall and not projecting more than Nine (9) inches from the face of the wall at any point.
- (76) Window Sign: A sign – printed, painted, neon or otherwise – no greater than thirty-two (32) square feet, displayed in or through a window or glass door and which can be seen from the front property line / right of way line. All windows signs except open or closed, name of store or business and national product logos (Image signs are permitted) are prohibited after February 1, 2012. *Ord 04-03; Ord 10-02*

Sec.15-3 Permits, Renewals, Expiration and Transfers.

Permit Required: It shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, placement, or moving of any sign or sign structure or any portion thereof without first having applied in writing

to the City Manager, or his designee, for a sign permit to do so, and a sign permit has been granted therefore. Should any existing sign be enlarged, replaced, moved, or reconstructed, it shall be considered a new sign, requiring a sign permit. If an existing sign is repainted or the sign panels replaced for the purpose of changing the business or tenant, it shall require the filing of an assignment permit, pursuant to Section 15-3(G)(2). However, the re-painting of a sign face or the replacement of sign panels for ordinary maintenance, shall not constitute such a change as to classify the sign as a new sign, and shall not require a sign permit, providing that the repair and/or replacement shall be in conformance with the height, location, and dimensions as shown in accordance with the original sign permit, and that any damage to the sign shall not be sufficient to make the sign subject to the requirements of Section 15-13. The primary responsibility for securing the necessary permit(s) shall be the property owner's. However, if the property owner should contract part or all of the proposed work, it shall become the responsibility of the person or firm hired to perform that work to ensure that all required permits and approvals have been secured prior to any work being initiated. For the purposes of this Ordinance, through the acceptance of the contract to perform the work, the third party so contracted shall become equally liable for all fees, fines, and penalties prescribed by this Ordinance arising from violations resulting from that work.

- (A) Applications shall be submitted to the Public Works Department for review and approval. Said application shall consist of a scale drawing showing the detail and dimensions of said sign along with the dimensions of the building and proposed location of the sign(s).
- (B) All signs which are electrically illuminated by neon and other means shall require a separate electrical permit and inspection.
- (C) All signs shall be erected within Ninety (90) days of issuance of the permit; otherwise the permit shall become null and void.
- (D) Signs erected and maintained by the City shall not require a permit nor may they be restricted by the provisions of this Ordinance.
- (E) All signs existing on the original date of passage of this Ordinance shall be registered and contain the information of 15-3(A) by February 15, 1993, conforming or legally non-conforming.
- (F) The City Manager or designee shall cause an inspection of the sign for which each permit for a new sign or for modification of an existing sign is issued during the fourth (4th) month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this Ordinance and with the building and electrical codes, the City Manager or designee shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete, but not in full compliance with this Ordinance and applicable codes, the City Manager or designee shall give the owner or applicant notice of the deficiencies and shall allow an additional Thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the City Manager or designee shall affix to the premises the permanent symbol described above.

- (G) The owner of a sign requiring a permit under this Ordinance shall at all times maintain in force a sign permit for such sign.
- (1) A continuing sign permit shall lapse automatically if the business ceases. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of Ninety (90) days or more and is not renewed within Thirty (30) days of a Notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.
- (2) A current and valid sign permit shall be freely assignable to a successor as owner of the property of a business for the same premises, subject only to filing such application as the City Manager or designee may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

Sec.15-4 Administrative Procedures.

- (A) All applicants for a sign permit shall use forms provided by the City Manager or designee. The applicant shall answer all questions and, if required, include a site plan indicating the location of all structures in relation to property lines.
- (B) All signs shall conform to the standards contained in Section 15-7, unless otherwise provided herein.
- (C) All fees shall be approved by the City Council and may be amended from time to time.
- (D) Applicants are encouraged to use designs which enhance the aesthetic appearance of the City and shall be given incentives.
- (E) Representations by the Sign Permit Applicant: All representations, whether oral or written, made by an applicant or his agent on behalf of the application for a sign permit under this Ordinance shall constitute a material factor in granting a sign(s) permit. It shall be unlawful for the permittee to vary from such representations unless the permittee first makes application, as required by the provisions of this Ordinance.
- (F) Voiding of Sign Permit: Any permit may be revoked by the City Manager or his designee, at any time prior to the completion of the sign for which the same was issued, when it shall appear to him that there is departure from the plans, specifications or conditions as required under the terms of the permit, that the same was procured by false representation, or that any provision of this Ordinance are being violated. Written notice of such revocation shall be served upon the owner, his agent, or contractor, or upon any person employed in the building or structure for which such permit was issued, via a stop-work order, which shall be posted in a prominent location, and thereafter, no such construction shall proceed.
- (G) Replacement of Permanent Signs: In those instances where a permit is requested to replace an existing permanent sign, the original sign shall be completely removed prior to erection of the replacement sign. The sign structure of the original sign may be maintained in those instances where the replacement sign merely involves replacement of the sign lens or face, and where the replacement of the original sign does not invoke the requirements of Section 15-13.

Sec.15-5 Certain Signs Prohibited.

The following signs shall be prohibited in the City of South Padre Island:

- (A) Airborne signs.
- (B) Illegal signs as defined by the terms of Section 15-2(29), above, or any other sign constructed after the enactment of this Ordinance and which is not in compliance with the terms of this Ordinance.
- (C) Moving, Swinging, Flashing Signs, including electronic message centers, with the exception of time and temperature signs, however, such time and temperature signs shall be for that purpose only, shall be constant in nature, and shall not grow, melt, x-ray, up or down scroll, write-on travel, inverse, roll, snow or present pictorial or other animation.
- (D) Off-Premise signs.
- (E) Portable signs, except those used for temporary purposes as authorized by this Ordinance.
- (F) Banners.
- (G) Sidewalk sandwich signs.
- (H) Pole signs.
- (I) Snipe signs.
- (J) Signs with a reflective surface as herein defined.
- (K) Signs which contain characters, cartoons, or other representation, or statements, words or pictures of an obscene, prurient, or immoral character.
- (L) Signs which contain or are an imitation of an official traffic sign or signal, or which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device, or which may hide from view any traffic or street sign or signal.
- (M) Any sign construed or located in such a manner that is or becomes an immediate hazard or danger to persons or property because of being in an unsafe condition, or which obstructs any window, door, or fire escape of any building. Such signs will be subject to immediate removal by the City Manager, or his designee, without notice, at the expense of the owner.
- (N) Signs attached directly to a door or window. The only exceptions to this provision are a Business Information Sign, "Open" and "Closed" signs, Credit Card signs, ATM signs, and "Help Wanted" signs. [Ord 05-13]

- (O) Signs painted on or affixed to benches.

Sec.15-6 Sign Types Permitted.

The following signs shall be permitted under the provisions of this Ordinance.

- (A) Residential Signs:
 - 1. Residential nameplate signs.
 - 2. Permanent multi-family or subdivision identification signs.
- (B) Commercial Signs for Multi-Tenant Centers and Office Complexes:(See Sec. 15-7(B) Sign Standards)
 - 1. Monument signs.
 - 2. Awning and wall signs.
 - 3. Joint directory commercial signs.
 - 4. Nameplate Signs.
 - 5. Roof Sign.
 - 6. Window Signs – see Tables 15-3A & 15-3B for further details. *Ord 04-03; 3/17/04*
- (C) Commercial Signs for Single Business Use:
 - 1. Monument signs.
 - 2. Awning and wall signs.
 - 3. Nameplate Signs.
 - 4. Projecting Sign.
 - 5. Roof Sign.
 - 6. Window Signs – see Tables 15-3A & 15-3B for further details. *Ord 04-03; 3/17/04*
- (D) High Rise Building Signs.
- (E) Traffic-Control Signs upon private property.
- (F) Political Signs.
- (
- G) Temporary Signage:
 - 1. Future Project Development Signs – only allowed on the site which the project will be located and for only one (1) year. After which time the owner may apply for an extension (but only one extension) of the sign permit for one (1) additional year, but only if the permit holder shows progress in the development of the site.
 - 2. Project Development Signs: temporary sign for a commercial or multifamily tract during the construction of the proposed development. These signs should not be allowed until or unless the property owner receives a Building Permit for the site, and should be removed either immediately after receipt of the Certificate of Occupancy or immediately after the expiration or revocation of a Building Permit.
 - 3. Real Estate, For Sale, For Lease-- 30 days after sale or lease

4. Open House signs – The day of the Open House only.
 5. Contractor's Sign.
 6. The following miscellaneous allowed Business Marketing / Advertising Temporary Signs:
 - a. Advertising a "grand opening," one time only permit per business, for a ten (10) day period.
 - b. For general business purposes, limited to four (4) permits per year per business.
 - c. For charitable projects and benefits, limited to two (2) permits per year per business.
 - d. For recognized events and City holidays, as provided in Section 15-12.
- (H) Any sign not specifically listed as being permitted herein, is expressly prohibited.

Sec.15-7 Sign Standard.

(A) General:

1. All signs, temporary or permanent, must appear to be professionally made and/or printed.
2. No sign that appears to be hand printed will be allowed.
3. No awning, wall and/or roof signage may be used for advertising prices of products or services.
4. The following tables contain standards which are applicable to all signs permitted under the terms of this Ordinance.
5. The provisions of Tables 15-3A & 15-3B become effective midnight December 1, 2004.
6. Backlit signs with removable letters shall be allowed only on monument-style signs. In such cases, no more than 70% of the sign face can be used for marquee/removable letter area, and the remaining 30% or greater area may be used only for background color, the business name and/or logo.
7. Wall signs cannot be painted directly on the walls or surfaces of any structure and can include only the name of the on-premise business, business logo, business byline, and/or business products and services.

TABLE 15-1
Sign Number, Area and Height Regulations***

SIGN TYPE	MAX. No. SIGNS PER LOT	MAX. AREA OF SIGN	MAX. HEIGHT	SETBACK
Residential Signs				
1) Residential Nameplate signs	1 per dwelling unit	2 sq. ft per residence OR 0.5 sq. ft per multi-family unit	6 ft from average grade	15 ft from ROW & Property Line (PL)
2) Permanent multi-family or subdivision identification signs	1 per project or subdivision	24 sq. ft	16 ft from average grade	15 ft from ROW & PL
Commercial Signs for Multi-Tenant Centers & Office Complexes				
1) Monument Signs (Doubled Faced)	1 sign per center	72 sq. ft per face	16 ft from average grade	15 ft from ROW & PL
2) Awning, Wall & Roof Signs	As determined by tenant**	64 sq. ft. total		15 ft from ROW & PL
3) Joint directory commercial signs	1 per tenant	2 sq. ft per tenant	16 ft from average grade	15 ft from ROW & PL
4) Nameplate Sign	1 per tenant	2 sq. feet		15 ft from ROW & PL
5) Window Sign <i>Ord 04-03; 3/17/04 Prohibited after Feb 1, 2012; Ord 10-02</i>	4 - As per Table 15-3A & 15-3B	32 sq. ft. per sign		No closer than 6 inches from glass of window or door
6) Business Information Sign	1 Per Business	9 sq. ft. & no portion of the sign more than 5 ft. from the entrance,		
Commercial Signs for Single Business Use				
1) Monument (Double Faced)	1 sign per lot*	50 sq. feet per face	16 ft from average grade	15 ft from ROW & PL
2) Projecting Sign	1 sign per lot in lieu of monument sign	36 sq. ft. per face	16 ft from average grade	15 ft from ROW & PL
3) Awning, Wall, Roof Signs	As determined by business**	64 sq. ft total		15 ft from ROW & PL

SIGN TYPE	MAX. No. SIGNS PER LOT	MAX. AREA OF SIGN	MAX. HEIGHT	SETBACK
4) Nameplate Sign	1 per tenant	2 sq ft.		15 ft from ROW & PL
5) Window Sign <i>Ord 04-03; 3/17/04 Prohibited after Feb 1, 2012 Ord 10-02</i>	4 As per Table 15-3A & 15-3B	32 sq. ft. per sign		No closer than 6 inches from glass of window or door
6) Business Information Sign	1 Per Business	9 sq. ft. & no portion of the sign more than 5 ft. from the entrance,		
High Rise Buildings				
1) Monument Double-Faced	1 sign per lot*	72 sq. ft. per face	16 ft from average grade	15 ft from ROW & PL
2) Awning & Wall Signs	1 sign per lot	10% of the wall plane surface area, or 250 sq. ft., whichever is less.	Height of the wall	15 ft from ROW & PL
Traffic Control Signs located on Private Property				
	Comply with state standards	2 sq. ft.	8 ft. from average grade	
Political Signs				
		No greater than 36 sq. ft.	No greater than 8 ft tall	
Temporary Signage				
1) Future Project Development Signs (issued prior to construction of project)	1 per Development (not allowed in addition to Project Dev. Sign)	32 sq. ft.	8 ft from average grade	15 ft from side property line
2) Project Development Signs (Issued during construction of project)	1 per Development (not allowed w/ Future Project Dev. Sign)	32 sq. ft.	8 ft from average grade	15 ft from side property line
3) Freestanding Real Estate Signs, For Sale , For Lease	1 per lot	Sites with less than 1 acre = max of 6 sq. ft.	3 ft. from average grade	15 ft from ROW & PL
		Sites > 1 acre and < 5 acres = max of 16 sq. ft.	8 ft from average grade	15 ft from ROW & PL
		Sites 5+ acres = max of 32 sq. ft.	8 ft. from average grade	15 ft from ROW & PL

SIGN TYPE	MAX. No. SIGNS PER LOT	MAX. AREA OF SIGN	MAX. HEIGHT	SETBACK
4) Open House Signs	1 per lot	6 sq. ft.	3 ft. from average grade	15 ft from ROW & PL
5) Contractor's Signs	1 per contractor and subcontractor	6 sq. ft.	3 ft. from average grade	15 ft from ROW & PL
6) Miscellaneous Allowed Business Marketing / Advertising Temporary Signs – See Sec. 15-6(G)(6)	1 per business per permit [see Sec. 15-6(G)(6)]	36 sq. ft. per sign	16 ft from average grade, if free standing	15 ft from ROW & PL
7) Sail Flag Signs and Feather Flag Signs	2 per business except multi-Tenant center only 1 per business	18 sq ft per sign	16 ft. from average grade	15 ft from ROW and property line

* One per property, except where a business owns, under single ownership, the entire street frontage of a block, that is, the entire frontage of a public street between two other intersecting public streets, may be permitted two, free-standing monument signs, as defined by this Ordinance, providing the signs are placed a minimum of 150 feet apart. In those areas on the north and south ends of the community where the "C" District is not divided in the traditional grid pattern of "blocks," a business which owns, under single ownership, a minimum of 200 feet of lineal street frontage, as measured on a single street (i.e., the measurement shall not be made around the corner of one street onto another), the business may be permitted two, free-standing monument signs, provided they are placed a minimum of 150 feet apart. In no instance shall a business with a(n) existing non-conforming free-standing sign(s) be permitted the two free-standing monument signs permitted under this provision unless and until the non-conforming free-standing sign(s) is (are) first removed.

**Single businesses and tenants of multi-tenant centers and office complexes may have any number of awning, wall, or roof signs, as defined and permitted by this Ordinance provided the total square footage of all such signs does not exceed the allowed square footage as defined by this ordinance as seen from the public right of way from any line of sight.

***A variance of the requirements of this Table may be granted by the Development Standards Review Task Force. [See Section 15-14]

TABLE 15-2

Review, Lighting, Landscaping, and Duration Requirements for Signs***

SIGN TYPE	REVIEW REQUIRED?	OPTIONAL LIGHTING TYPE	DURATION LIMIT (Subject to Sec. 15-3G)
Residential Signs			
1) Residential Nameplate	No	Direct or Indirect	None
2) Permanent multi-family or subdivision identification	Yes	Direct or Indirect	None
Commercial Signs for Multi-tenant Centers and Office Complexes			
1) Monument	Yes	Direct or Indirect	None
2) Awning, Wall, Roof	Yes	Direct or Indirect	None
3) Joint Directory Commercial	Yes	Direct or Indirect	None
4) Nameplate	Yes	Direct or Indirect	None
5) Window* <i>Ord 04-03; 3/17/04</i>	Yes	Neon only	None
Commercial Signs For Single Business Use			
1) Monument Double-Faced	Yes	Direct or Indirect	None
2) Projecting	Yes	Direct or Indirect	None
3) Awning, Wall, Roof	Yes	Direct or Indirect	None
4) Nameplate	Yes	Direct or Indirect	None
5) Window* <i>Ord 04-03; 3/17/04</i>	Yes	Neon only	None
High Rise Buildings			
1) Monument Double-Faced	Yes	Direct or Indirect	None
2) Awning, Wall, Roof	Yes	Direct or Indirect	None

*All windows signs are prohibited after February 1, 2012 except open or closed, name of store or business and national product logos (Image sign(s) are permitted).

SIGN TYPE	REVIEW REQUIRED ?	OPTIONAL LIGHTING TYPE	DURATION LIMIT (Subject to Sec. 15-3G)
Traffic Control Signs Located on Private Property			
	Yes	Not Applicable	
Political Signs			
	No.	Not permitted	
Temporary Signage			
1) Future Project Development Signs (issued prior to construction of project)	Yes	Not permitted	Up to one year OR until receipt of Building Permit for project, whichever is the lesser time period. One (1) extension may be granted with proof of satisfactory progress of on-site development.
2) Project Development Signs (Issued during construction of project; after receipt of Building Permit)	Yes	Direct or Indirect	Valid for the life of the project until/unless the Building Permit expires, OR no longer than 30 days after receipt of Certificate of Occupancy
3) Freestanding Real Estate Signs, For Sale , For Lease	If less than 6 sq. ft. - No.	Not permitted	30 days after sale or lease
	All Others - Yes.	Not permitted	30 days after sale or lease
4) Open House signs	No	Not permitted	The day of the Open House Only
5) Contractor's Sign	No	Not permitted	With issuance of certificate of occupancy OR 15 days if building permit not required
6) Miscellaneous Allowed Business Marketing / Advertising Signs – See Sec. 15- 6(G)(6)	Yes	Direct or Indirect	15 days per permit
7) Sail Flag Signs and Feather Flag Signs	Yes	Not permitted	6 months per permit

***A variance of the requirements of this Table may be granted by the *Development Standards Review Task Force*. [See Section 15-14]

Table 15-3A Window Signage* Ord 04-03; 3/17/04

Allowing the name of the business, byline, logo, and/or specials & advertising
All windows signs are prohibited after February 1, 2012, except open or closed, name of store or business and national product logos (Image signs are permitted). Ord 10-02

Total Linear ft. per street side with windows per place of business	Max. No. of Window Signs Per Place of Business	Max. area Per window/ image sign	Max. total area of Window Signage	Minimum Distance between window signs
100 ft or less	1	32 sq. ft.	32 sq. ft.	N/A
101 ft or greater	2	32 sq. ft.	64 sq. ft.	10 ft. or equally spaced whichever is greater.
150 ft. or greater	3	32 sq. ft.	96 sq. ft.	10 ft. or equally spaced whichever is greater.
200 ft. or greater	4	32 sq. ft.	128 sq. ft.	10 ft. or equally spaced whichever is greater.

Table 15-3B Image Signage Ord 04-03; 3/17/04

Allowing 2D images of models and product display

Total Linear ft. per street side with windows per place of business	No. of Image Signs Per Place of Business	Max. area per each image sign	*Maximum possible area of Image Signage	
100 ft. or less	1	32 sq. ft.	64 sq. ft.	
101 ft or greater	2	32 sq. ft.	128 sq. ft.	
150 ft. or greater	3	32 sq. ft.	192 sq. ft.	
200 ft. or greater	4	32 sq. ft.	256 sq. ft.	

* Businesses can substitute window signage (*Table 15-3A*) for display of additional image signage (*Table 15-3B*), but cannot substitute allowable image signage for additional window signage. For example, a business allowed to have 4 window signs and 4 image signs, may choose to have 2 window signs and 6 images signs; however they may NOT have 6 window signs and 2 image signs. Under no circumstance may a business have more than four (4) window signs.

The provisions of Table 15-3A & 15-3B become effective midnight December 1, 2004.

*All windows signs are prohibited after February 1, 2012 except open or closed, name of store or business and national product logos (Image signs are permitted).

(B) Multi-tenant Structures: Unified sign plans are requested by the Design Review Committee in order to promote a compatible style or theme between all signs within a single multi-tenant development. The unified sign plan, which will include a plan for all monument and awning, wall, or roof signage, is not intended to prevent multi-tenant establishments from self-expression or creative advertisement. Each business within the multi-tenant center will still be required to obtain individual sign permits. Approval of a unified sign plan will only set the parameters for the future signs within a multi-tenant development.

- The proposed sign type should be complimentary to the architectural style of the development.
- The lettering style, sign background color and/or awning color should be compatible with one another.

1. **New Construction:** All new multi-tenant commercial developments are required to provide a unified sign plan (to include all monument signage, and awning, wall or roof signage) at the time of site plan submission, to be reviewed by the Development Standards Review Task Force. This plan shall include the following information:
 - a. Sign locations
 - b. Sign dimensions
 - c. Sign background and/or awning colors
 - d. Sign materials/lighting
2. **Existing Developments:** All existing multi-tenant developments will be required to submit a unified sign plan by December 1, 2004 (to include all monument and awning, wall or roof signage). No new sign permits will be issued to any tenant or to the owner of a multi-tenant development until such plan has been submitted and approved by the Development Standards Review Task Force. The Development Standards Review Task Force will review proposed sign plans with input and cooperation from the owners and/or existing tenants of the development. A time line and future sign plan may be established in order to reasonably phase in changes needed to comply with a unified sign plan. The existing sign plan will include the following information for each tenant currently located within the center and for all vacant tenant space within the center:
 - a. Sign locations
 - b. Sign dimensions
 - c. Sign background and/or awning colors
 - d. Sign materials/lighting
3. **Sign Dimensions:** Businesses located within a multi-tenant development must comply with the submitted and approved unified sign plan for that multi-tenant development. Owners/tenants may not combine the use of awning, wall and roof signage; they must instead choose one kind of signage of the three. The table below should be used as a general policy to determine the maximum amount of awning, wall or roof signage per place of business.

Another suggested alternative for multi-tenant owners to determine the maximum area of signage for each place of business is to divide the total linear feet of store frontage of the multi-tenant structure by the number of places of business located within the structure, and using the table below, determine the average maximum square footage of signage allowed for each place of business.

Total Linear Feet of Store Frontage per Place of Business	Proposed Total Square Footage of Awning, Wall or Roof Signage
18 feet or less	24 square feet or less
Over 18 feet to 36 feet	32 square feet or less
Over 36 feet to 54 feet	48 square feet or less
Over 54 feet	64 square feet or less

* Awning, wall, and roof signs can only be business identity signs which may include the name of the on-premise business, business logo, business byline, and/or business product and services but under no circumstance shall a business use awning, wall and/or roof signage for the purpose of advertising prices of their products (i.e. 4 T-shirts for \$20; beer bong for \$9.99, etc.).

** A business may potentially have more than 64 square feet of signage, but no more than 64 square feet can be seen at any one time from any one line of sight.

Sec. 15-8 Signs Exempt from Regulation.

The provision of this Ordinance shall not apply to the following signs:

- (A) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other metal provided that such signs shall not exceed Two (2) square feet.
- (B) Signs erected and maintained by the City.
- (C) Official Governmental Notices and notices posted by governmental officers in the performance of their duties, governmental signs to control traffic or for other regulatory purposes, or to identify streets, or to warn of danger.
- (D) Works of fine art, as identified by the Development Standards Review Task Force which in no way identify or advertise a product or business.
- (E) Temporary decorations or displays, when they are clearly incidental to and are customarily and commonly associated with any national or local holiday or celebration; provided, that such decorations are maintained in an attractive condition, do not constitute a fire or traffic or pedestrian hazard, and are removed within a reasonable time after the event or celebration has occurred.
- (F) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

- (G) Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of business, indicating the name of the owner, business and location, (e.g. moving vans, delivery trucks, rental trucks and trailers and the like); provided that the primary purpose of the vehicles is not for display of signs, and provided that they are parked in areas appropriate to their use as vehicles, are normally used in the course of business, are in operable condition, and carry a current and valid license plate and state inspection tag.
- (H) "Open" and "Closed" signs, Credit Card signs, ATM signs, and "Help Wanted" signs, provided that the sign does not exceed five (5) square feet. No more than one (1) such sign is allowed per Building Face or Wall. [Ord 05-13]

Sec. 15-9 Signs exempt from permitting requirements.

- (A) Political signs.
- (B) Real Estate "For Sale" Signs.
- (C) Required signs.
- (D) Contractor's Sign.

Sec. 15-10 Wind Pressure Load Requirements for Signs.

Any sign as defined in this Ordinance, which will have a height, of Six (6) feet or more, shall be designed and constructed to withstand wind load pressures in pounds per square foot as set out in Table 15-4.

TABLE 15-3

Minimum Wind Load Pressure Resistance in Pounds Per Square Foot

<u>Sign Height</u>	<u>Pressure</u>
0 - 30 feet	35 PSF
31-50 feet	45 PSF
51-99 feet	55 PSF
Over 100 feet	70 PSF

Sec. 15-11 Fees, Maintenance of and Abandoned Signs.

- (A) The City Council shall approve all fees for issuance of permits pursuant to Chapter 15. A current list of fees shall be maintained in the Office of the City Manager and the Building Department. The Board may change and alter these fees at any time.
- (B) All signs, sign supports and skirting shall be maintained in good repair so as to prevent rust, peeling, flaking, or fading; if skirting is painted it shall match the base color of the building. Broken panels, missing letters, flaking and peeling paint, sign lighting not maintained in operating condition, and all other visual damage to a sign shall be repaired and all dead landscaping associated with the sign shall be replaced within thirty (30) days of notification by the Code Enforcement Officer.
- (C) Any sign or sign structure which advertises a business, or use no longer conducted or service no longer rendered, or a product no longer offered on the premises where the sign is located shall be classified an abandoned sign, and shall be removed by the owner,

agent, or person having beneficial use of the property upon which the sign is located within ten (10) days of notification by the Code Enforcement Officer concerning the removal. "Removal" shall include the subject sign, as well as the sign structure, poles, and other supporting members.

Sec. 15-12 Special Provisions for Recognized Events and City Holidays.

Regardless of any provision to the contrary contained in this chapter, during the Period of recognized events and City holidays, the City Council, or the City Manager or his designee may grant permits for temporary signage of any nature for the specific period of the respective event or holiday without a review by the Development Standards Review Task Force.

(A) To qualify for a permit, the proposed temporary signage must directly incorporate reference to the applicable recognized event or City holiday. The use of inflatables, placed at the site of recognized events, is strictly limited to major corporate sponsors of the respective event.

(B) If a permit has been issued for temporary parking facilities pursuant to Sec. 13-22 of this code, that permit holder may also obtain a temporary sign permit to identify the parking facility. The sign may be a flashing type sign, the exact nature of the sign is subject to approval of the City Manager or his designee. There shall be a \$10 fee if the permit is issued simultaneous with the temporary parking facilities permit.

Sec. 15-13 Legally Non-Conforming Signs - Abatement

A. Any existing non-conforming sign legally registered, as required by this Ordinance, may continue to be maintained and used subject to the following provisions:

1. Enlargement - No non-conforming sign shall be enlarged, expanded, or extended to occupy a greater square footage or height than was occupied on the date of its registration.
2. Relocation - No non-conforming sign shall be moved in whole or in part to any other portion of the lot, parcel, or building not so occupied on the date of its registration. Any legally non-conforming sign that is removed from its original location may not be reinstated at any other location within the City unless it shall conform with all of the requirements of this Chapter.
3. Discontinuance - If the business, service, product, or person advertised or identified by a legally non-conforming on-site sign ceases to be conducted at that site, all signs must be brought into conformance with the requirements of this Ordinance prior to utilization by any new business, service, product or person. (See Section 15-2 for definition of "abandoned" sign.).
4. Destruction - Should any non-conforming sign be damaged or destroyed by any means to an extent that repairs exceed Sixty Percent (60%) of the cost of erecting a new sign of the same type, it shall not be reconstructed except in conformance with all of the requirements of this Chapter.
5. Removal - If a legally registered non-conforming sign is removed for any reason it shall not be replaced except with a conforming sign.
6. Wind Load Pressure Requirements - If a legally non-conforming sign is damaged by the wind, and the damage involves less than Fifty Percent (50%) of the surface area of

the sign or the sign structure, then the repair of the sign must comply with the wind pressure requirements of Table 15-3, providing that the wind load pressure requirements can be met without repairing or altering more than Fifty Percent (50%) of the sign surface or sign structure, in which case the sign must then be removed.

7. Replacement – The replacement of any portion or part of a legally non-conforming sign shall classify the non-conforming sign as a “new” sign requiring the conformance of the sign to all of the requirements of this Ordinance at that time.

8. All non-conforming, off-premise signs must be removed no later than June 1, 2005.

B. Determination of Non-Conformance -- In any instance of cases of doubt or a specific question raised as to whether a non-conforming sign exists, it shall be a question of fact and shall be determined on appeal to the City Council as referenced in Section 15-14 of this Ordinance.

Sec. 15-14 Appeals and Variances.

Any person aggrieved by any decision of the City Manager or his designee in the administration of this Chapter may appeal such decision to the Development Standards Review Task Force. The Development Standards Review Task Force shall:

(A) Hear and decide appeals that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter,

(B) Grant variances from the strict enforcement of the requirements of this Chapter due to special conditions, a literal enforcement of this Chapter would result in unnecessary hardship, and so that the spirit of Chapter 15 is observed and substantial justice is done,

(C) Provide recommendations to the City Council regarding ordinance revisions and changes to this chapter to better address the City’s desired direction for aesthetic improvement.

Any person aggrieved by the decision of the Development Standards Review Task Force in granting approval or denial of a sign permit may appeal such decision to the City Council, requesting a determination by that body. A Notice of Appeal must be filed in the Office of the City Secretary within ten (10) calendar days following the decision by the Development Standards Review Task Force. The appeal will specifically state how the application, as filed or subsequently modified, meets or fails to meet the applicable criteria set forth in these regulations. No appeals will be accepted after the tenth calendar day following the decision of sign permit approval/denial. However, if an appeal is submitted, the aggrieved party shall be placed on the agenda for the next regular meeting of the City Council for a final decision.

Sec. 15-15 Bond required.

(A) Upon the granting of the permit required by this chapter, and prior to the commencement of erection and or construction, a bond with good and sufficient sureties for a sum of not less than Ten Thousand (\$10,000.00) Dollars providing for the payment to the City and to any person or persons injured or damaged in person or property, including damages to streets, culverts or any other property of the City, for all injuries and damages caused by, or growing

out of, or in any manner connected with the erection, construction, structural alteration, placing or locating of the sign covered by the permit.

(B) Upon filing of the required bond, the Building Inspector shall determine whether or not the sum of Ten Thousand (\$10,000) Dollars is sufficient to cover the amount of probable damage. In the event that it is determined that a higher amount is necessary to cover such damages, such bond shall be made and increased to such determined amount.

Sec. 15-16 Penalty Provisions.

Any person convicted of a violation of any provision of this Chapter shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00) as provided by Sec. 21-1 of Chapter 21 of the Code of Ordinances and each day that the violation continues shall be a separate violation.

Chapter 16

ARTICLE I Streets And Right-Of -Ways

Sec.16-1 Permit--Required for work within right-of-ways.

No person or other legal entity shall cut, dig, excavate, or in any manner disturb any street or portion of any right-of-way, or perform any kind of work of any nature, within the City's right-of-ways without first obtaining a permit from the City. (Ord. No. 98, 5-19-82)

- ~~(A) All permits for driveway access of single family and multi family buildings of 12 or less units shall be limited to one 10ft wide driveway (curb cut) for each required parking space. Raddi of no more than three (3') feet will be allowed. (Ord 08-11)~~
~~(B) No other portion of public right of way may be paved or disturbed by the property owner. Deleted per Ordinance 16-02, 2-3-2016~~

Sec.16-2 Fill materials--Prior approval before removed.

No person may remove or otherwise dispose of any fill materials that are generated as a result of excavation work within the City right-of-ways without the prior approval of the City. (Ord. No. 86, 11-24-80)

Sec.16-3 Same--Prior offer to City required.

All materials generated as a result of excavation or work done within the City's right-of-ways shall first be offered to the City for use and/or disposal. If the City has no use for said materials, then the party excavating may dispose of the materials in any other manner he sees fit, except that no excavated materials removed from the City's right-of-ways may be removed from the City's limits. (Ord. No. 86, 11-24-80)

Sec.16-4 Excavation--Application for permit--Contents.

Any person or entity that cuts or excavates any paved street within the City shall file detailed plans and specifications with the Building Inspector showing the exact nature and location of the proposed work. The application shall contain at least the following information, to-wit:

- (A) The exact location of the proposed work, and if a street is being cut, the exact size of the cut and depth of excavation;
- (B) The exact date the excavation shall take place and the length of time to accomplish the work before the excavation is backfilled and passable;
- (C) The length of time from commencement to completion of the job;
- (D) The number and types of warning devices and barricades that will be utilized at the job site;
- (E) The name and telephone number of the responsible party available 24-hours a day in case of emergency. (Ord. No. 98, 5-19-82)

Sec.16-5 Same--Additional information required.

The applicant shall furnish such additional information and data that may be required by the Building Department before the issuance of a permit. (Ord. No. 98, 5-19-82)

Sec.16-6 Bond for restoration of right-of-way.

The Building Inspector shall estimate the reasonable expense that will be incurred by the City if it repaired any excavation work done by an applicant, and if the Building Inspector determines that the City can restore any excavation done pursuant to the permit, the applicant may then pay the City for the estimated cost of the work for restoration, and the applicant shall have no further liability for restoration; or the applicant shall post a cash bond payable to the City, in an amount equal to double the estimated cost of restoration, and when the applicant has certified to the City that the street and/or right-of-way has been restored to as good or better condition than existed prior to the work and the Building Department has inspected the site and certifies the street or right-of-way has been restored, then the bond shall be refunded. If the applicant does not restore the street or right-of-way within the time provided by the permit, then the City may correct the work (restore the street or right-of-way) and forfeit the cash bond to cover its costs and expense in connection therewith. (Ord. No. 98, 5-19-82)

Sec.16-7 Restoration of right-of-way required.

All streets and right-of-ways that may be disturbed by any work shall be restored to as good or better condition than existed immediately prior to the work or excavation. (Ord. No. 98, 5-19-82)

Sec.16-8 Permit--Issuance and fees.

The Building Inspector, upon receiving all the information required by Sections 16-4 and 16-5, may issue a permit for the work to be performed within the City's right-of-ways or for the cutting of streets, and all work shall be in strict compliance with the permit and the written instructions of the Building Inspector. There shall be a fee of \$50.00 for each permit issued, and no permit may be good for more than thirty (30) days. (Ord. No. 98, 5-19-82)

Sec.16-9 Same--Appeal from denial.

If a Building Inspector denies a permit, the applicant may appeal any ruling or denial of the Building Inspector to the City Council. The decision of the Board shall be final. (Ord. No. 98, 5-19-82)

Sec.16-10 Construction permit holders responsible for damage to streets.

It shall be the responsibility of the permit holder to have repaired any damage to streets of the City caused by delivery of materials and/or supplies to the construction site, or by the operation of equipment, and said permit holder shall make the repairs in the manner and time periods provided by the Building Inspector. (Ord. No. 71A, 8-4-82)

Sec.16-11 Non-rubber wheeled vehicles prohibited.

Non-rubber wheeled vehicles are hereby prohibited from being placed upon or operating upon any paved street within the City.
(Ord. No. 71A, 8-4-82)

Sec.16-12 Stop-work order authorized.

Any permit holder that does not comply with any City ordinance, code, law or instruction of the Building Inspector shall be issued a stop-work order. (Ord. No. 71A, 8-4-82)

Sec.16-13 Cul-de-sacs--Unauthorized improvements prohibited.

No person, corporation or entity may in any manner pave, utilize or otherwise improve cul-de-sacs without strictly complying with this Chapter. (Ord. No. 85, 11-24-80)

Sec.16-14 Same--Requirements for paving, landscaping.

- (A) Any person wishing to pave a cul-de-sac shall be required to pave the same from right-of-way to right-of-way, connect the cul-de-sac to the existing Gulf Boulevard, and may only undertake paving the cul-de-sac up to the building line established by the Attorney General of the State of Texas or the dedicated end of the cul-de-sac, or such lesser point that the City may designate. (Ord. No. 85, 11-24-80)
- (B) Any person wishing to landscape a portion of the end of the cul-de-sac in lieu of paving the same, may make application to the City Council to allow landscaping improvements at the end of the cul-de-sac in lieu of paving. If landscaping is approved by the Board in lieu of paving, the added landscaping shall be in strict compliance with the conditions and requirements imposed by the Board in granting the right to landscape in lieu of paving. No application may be considered without the recommendation of the City Attorney. If any applicant feels the conditions and requirements of landscaping are too burdensome, then they may pave the same in lieu of landscaping. (Ord. No. 85C, 6-10-82)

Sec.16-15 Same--Bulkhead required.

Any person wishing to pave or improve the cul-de-sac shall also be required to erect a bulkhead at the end of the cul-de-sac, with appropriate stairs to provide access to the beach. (Ord. No. 85, 11-24-80)

Sec.16-16 Same--Bulkhead specifications set by City.

The grades and elevations of the cul-de-sac, seawall or bulkhead shall be as established and set by the City. (Ord. No. 85, 11-24-80)

Sec.16-17 Same--Plans required.

Prior to improving or otherwise working in the cul-de-sac, said property owner or contractor or other party shall first submit a detailed set of plans of the grades and elevation of

the proposed improvements, and said plans for road work and bulkhead shall be certified by an engineer. (Ord. No. 85, 11-24-80)

Sec.16-18 Same--Bulkhead quality comparable to adjoining property.

Any bulkhead (being the same as a seawall) that is installed in any City cul-de-sac shall be at least equal to or better than, the design and construction quality of the bulkhead (seawall) of the adjoining property to which the cul-de-sac bulkhead is attached. In no event shall the design or construction of the bulkhead (seawall) located in the cul-de-sac be of any lesser quality than the adjoining bulkhead (seawall) and must be at least of sufficient design and construction to serve its intended use and purpose. (Ord. No. 85A, 8-5-81)

Sec.16-19 Same--Finished grade requirements.

The finished grade for the Eastern end of the paving within the right-of-way of a cul-de-sac, shall be within 16 inches of the top of the bulkhead located at the end of the cul-de-sac being improved and shall be sloped to drain back to Gulf Boulevard at such an angle (angle of slope) as may be approved by the Building Inspector. (Ord. No. 85B, 9-16-81)

Sec. 16-20. Restricted Access Laguna and Gulf Blvd.

- (A) Access to or from Laguna Blvd to adjacent property is prohibited unless the property does not abut any other street.
- (B) Access to or from Gulf Blvd to adjacent property on the west side is prohibited unless the property does not abut any other street.
- (C) The City Council may grant an exception to this Sec. 16-20 if it can be shown that access to or from Laguna Blvd or that access to or from Gulf Blvd to adjacent property on the west side would enhance the safety of the roadway for all users instead of using the east/west street.

Sec. 16-20.1 Restricted Access Padre Blvd.

- (A) Access to or from Padre Blvd to adjacent property is prohibited for new construction or development after February 15, 2010 unless the property does not abut any other street and access to or from the side street (east/west street) shall be not less than 30 feet from Padre Blvd Right-of-Way.
- (B) The City Council may grant an exception with or with conditions to this Sec. 16-20.1 if it can be shown that access to or from Padre Blvd would enhance the safety of the roadway for all users instead of using the east/west street(s).
- (C) No vehicles are permitted to back out on to padre Blvd as part of any approved parking plan.

- (D) Any existing structures on Feb 15, 2010 that access to or from Padre Blvd directly or provide head in parking off Padre Blvd shall be legally conforming and only be required to comply with this Sec. 16-20.1 if the existing structure is totally destroyed or demolished. Any change of use must still meet all requirements for the number of parking spaces mandated by the Zoning ordinances (Chapter 20 of the Code of Ordinances).

Sec. 16-21 Prohibition on Activities Between 9:30 P.M. and 8:00 A.M.

Fishing, operation of generators and other lighting devices is prohibited at the West end of the streets located in the low density residential—single-family dwelling Zoning District “E” during the hours of 9:30 P.M. and 8:00 A.M. and being that portion of the rights-of-way located west of the west rights-of-way line of Laguna Boulevard.

Sec.16-22-49 Reserved for expansion

**ARTICLE II
Bay Area**

Sec. 16-50 Shoreline Task Force.

A Shoreline Task Force is hereby established with an initial membership of eleven (11) members to be reduced to seven (7) members on September 30, 2011. All members are appointed by the City Council and may be removed at any time by Resolution without reason.

Sec. 16-51 Member Appointment and Terms.

(A) The initial Task Force shall consist of the current members of the Beach and Dune Task Force and the Bay Area Task Force Implementation Committee with the same term expiration of the appointment to those respective boards. When the current six (6) members that have a term that expires on September 30, 2011 only two of the seats may be filled and the membership shall be reduced to seven (7) members.

(B) After September 30, 2011 the Shoreline Task Force will be composed of seven (7) members and the members shall draw numbers (between 1 and 7) to affix numbers to each seat. The two members appointed or re-appointed as provided in “A” above will have a two year term and the remaining five members that have terms that expire on September 30, 2012 will draw to determine which one of their seat positions will only be appointed for a one time one year term, so that thereafter terms will be staggered with two year terms with three seats one year and four the next year. Any vacancies for a position/seat shall be filled for the unexpired term of that position. A member shall hold office until his/her successor has been appointed by the City Council.

Sec. 16-52 Chairman of Board.

The members of the Shoreline Task Force shall elect a Chairman and the Vice-Chairman to a one-year term. The Vice-Chairman shall act as Chairman in the absence of the Chairman.

Sec. 16-53 Quorum.

The majority of the appointed members of the Shoreline Task Force shall constitute a quorum but no action of the Shoreline Task Force shall be of any force or effect unless it is adopted by a favorable vote of four (4) or more members.

Sec. 16-54 Duties and Functions.

(A) To carry out all of the duties and functions of the Beach and Dune Task Force as provided by Chapter 22 of the Code of Ordinances.

(B) Make recommendations to the City Council pertaining to the following:

- (1) Bay accesses;
- (2) Boat ramps;
- (3) Parking for boat trailers and vehicles;
- (4) Public Safety of the Bay;
- (5) Marina feasibility;
- (6) Bay side issues;
- (7) Any additional tasks assigned by the City Council.

Chapter 17

TAXATION

ARTICLE I. IN GENERAL

Sec.17-1 Tax Code adopted, sales tax adopted.

- (A) The City hereby adopts the Property Tax Code of the State, V.A.C.S. Tax code, Title I and all taxation by the City shall be in accordance with State Law.
- (B) The City, pursuant to State Law, has adopted a two percent (2%) local sales tax to be administered and collected according to State law.

Sec.17-2 Assessment and collection--City Council to appoint officers, entities.

The City Council shall, by resolution, appoint officers or entities for assessment and collection of any taxes imposed by the City, and shall, by resolution, enter into any contracts with such officers or entities deemed necessary by the Board to carry out the assessment and collection of taxes.

Sec.17-3 Rates and levies--City Council to set by resolution.

The City Council shall set taxation rates and levies by resolution or ordinance.

Sec.17-4 Tax rates, discounts, etc. to comply with State law.

All tax rates, discounts, levies, payments and penalties imposed by the City Council shall be in compliance with State law.

Sec.17-5 Exemptions from ad valorem taxes.

The City Council may annually, by resolution, provide for specific exemptions from ad valorem taxes. If no resolution is so made, there shall be no exemptions; any exemptions granted for the previous years notwithstanding.

Sec.17-6 Gas and electricity--tax retained.

The City retains 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 the residential use, as authorized by Section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session. (Ord. No. 69,3-12-79)

ARTICLE II. HOTEL-MOTEL OCCUPANCY TAX

Sec.17-7 Definitions.

The following words, terms and phrases, except where the context clearly indicates a different meaning, are defined as follows:

Hotel shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

Consideration shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Occupancy shall mean the use or possession, or the right to use or possess, any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

Occupant shall mean anyone who, for a consideration, uses, possesses, or has a right to use or possess, any room in a hotel if the room is one ordinarily used for sleeping.

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

Tax assessor-collector shall mean the Mayor of the City or such other duly designated officer.

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

Sec.17-8 Rate of tax established.

There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of Two Dollars (\$2.00) or more per day, such tax to be equal to Eight and one-half (8 1/2%) Percent of the consideration paid by the occupant of such room or space to such hotel.

Sec.17-9 Collection of tax by owners, operators, etc.

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed by this Article for the City. (Ord. No. 29, 4-2-75)

Sec. 17-10 Room Occupancy Tax - Reports/Payment

On or before the 15th day of the month following each monthly period, every person required by Article II of Chapter 17 hereof to collect the tax imposed herein shall file a report with the Finance Department showing the consideration paid for all room or sleeping space occupancies in the preceding month, the amount of tax collected on such occupancies, number of room nights available during the reporting period, number of room nights rented during the reporting period, and any other information as the Finance Department may reasonably require, which report shall be in writing. Such persons shall pay the tax due on such occupancies by the 15th day of the month following each monthly period. (Ord No. 29E, 2-19-92)

Sec.17-11 Discount for timely payment.

Any person timely paying the tax due under this Article may deduct and withhold from the person's payment to the City, as reimbursement for the cost of collecting the tax, an amount equal to one percent (1%) of the amount of tax collected and required to be reported to the City.

Sec. 17-12 Room Occupancy Tax - Procedures.

(A) The Finance Department shall adopt procedures, rules, and regulations as are reasonably necessary to effectively collect the tax levied herein, and shall upon request of any person owning, operating, managing, or controlling any hotel, furnish a copy of such procedures, rules, and regulations for the guidance of such person and facilitate the collection of such tax as a collection is required herein. Such procedures, rules, and regulations shall be in writing and a copy thereof shall be placed on file with the City Secretary. The Finance Department shall be permitted to have access to books and records of the taxpayer during reasonable business hours as shall be necessary to enable the Finance Department to determine the correctness of any report filed under Section 17-10, and to determine the correctness of the amount due under the provisions of this Chapter, or to determine whether or not a report should have been filed and the amount, if necessary, of taxes due.

(B) The City Manager or the Director of Finance shall pursuant to §351.0041 of the Tax Code of the State of Texas issue a certificate stating that no taxes are due or issue a statement of the amount required to be paid before a certificate may be issued when requested by the owner or purchaser of a hotel. The Certificate or statement shall be issued within Sixty (60) days after receipt of the request.

(C) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the municipality to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(D) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price. (Ord. No. 29E, 2-19-92)

Sec.17-13 Room Occupancy Tax - Criminal Penalty.

(A) A person commits an offense if the person fails to file a report with the Finance Department, collect a tax for the City, or pay a tax to the Finance Department as the person is required to do by Article II of Chapter 17 of the City of South Padre Island Code of Ordinances or fails to follow any procedure, rule, or regulation promulgated by authority of Section 17-12.

(B) An offense under Article II is a misdemeanor punishable by fine as provided in Section 21-1 of the City of South Padre Island Code of Ordinances. (Ord. No. 29E, 2-19-92)

Sec. 17-14 Room Occupancy Tax - Civil Penalties.

If the person who is required to pay the tax imposed by Article II of Chapter 17 fails to collect such tax, file a report, or does not pay the tax when it is due, the person is liable to the municipality for interest, which begins to accrue after the due date at twelve percent per annum, from that day to the date of payment. If the tax has been delinquent for at least one complete municipal fiscal quarter, the person is liable to the municipality for a penalty equal to fifteen percent of the total amount of the tax owed, plus all interest accrued. [Ord 13-12, Sept 2013]

Sec.17-15 Revenues--Use.

All revenues derived from the tax levied herein shall be used for the purposes authorized by law. (Ord. No. 29, 4-2-75)

Sec. 17-16 Tax Imposed in Extraterritorial Jurisdiction. The hotel-motel tax as provided by Article II of Chapter 17 of the Code of Ordinances of the City of South Padre Island is hereby applicable to all properties located within the extraterritorial jurisdiction of the City of South Padre Island. All properties located within the extraterritorial jurisdiction shall impose and collect the tax and comply with all the provisions provided by Article II of Chapter 17 of the Code of Ordinances of the City of South Padre Island.

ARTICLE III Tax Increment Reinvestment

Sec. 17-20. DESIGNATING THE AREA AS A REINVESTMENT ZONE.

The area described in Sec. 17-21 below and more commonly referred to as the "South Padre Island Development Project" and officially assigned the name as designated in Sec. 17-24 below (which reinvestment zone so described, named and designated is hereinafter referred to as the "Zone"), is hereby designated as a Tax Increment Reinvestment Zone.

Sec. 17-21. DESCRIPTION OF THE BOUNDARIES OF THE REINVESTMENT ZONE.

Attached hereto as Exhibit "A"(3 pages), which is incorporated herein by reference for all purposes is a Cameron County Appraisal District Map with the parcels, area and boundaries of the Zone shaded in purple.

Sec. 17-22. CREATION AND COMPOSITION OF A BOARD OF DIRECTORS FOR THE ZONE.

There is hereby created a Board of Directors (the "Board") for the Zone, with all the rights powers and duties as provided by the Act to such Boards or by action of the City Council. Pursuant to Section 311.009(a) of the Texas Tax Code the Board shall consist of not less than five (5) and not more than fifteen (15) members. The City of South Padre

Island Tax Increment Reinvestment Zone Board shall consist of seven (7) members; six appointees from the City of South Padre Island, one appointee from Cameron County. Each taxing unit other than the City that levies taxes on real property in the Zone may appoint one member to the Board. A unit may waive its right to appoint a member. The City Council shall appoint the remaining directors. Appointees shall be for a two (2) year term. Upon expiration of their respective terms of office, replacements to the Board shall be appointed. Vacancies on the Board shall be filled by the respective taxing unit making such appointments for the remainder of the unexpired term.

Sec. 17-23. EFFECTIVE DATE AND TERMINATION DATE OF THE ZONE.

The Zone shall take effect on September 21, 2011 and continue until its termination date of December 31, 2026 unless otherwise terminated earlier as a result of payment in full of all project costs, tax increment bonds, if any, including interest on said bonds as authorized or permitted by law.

Sec. 17-24. ASSIGNING A NAME TO THE ZONE.

The Tax Increment Reinvestment Zone created hereby is assigned the name of "REINVESTMENT ZONE NUMBER ONE, CITY OF SOUTH PADRE ISLAND, TEXAS."

Sec. 17-25. TAX INCREMENT BASE. The tax increment base for the Zone is the total assessed value of all real property taxable by the City and located in the Zone, determined as of January 1, 2011, the year in which the Zone was designated as a Reinvestment Zone (the "Tax Increment Base").

Sec. 17-26. ESTABLISHMENT OF A TAX INCREMENT FUND.

There is hereby created and established in the depository bank of the City, a fund to be called the "REINVESTMENT ZONE NUMBER ONE, CITY OF SOUTH PADRE ISLAND, TEXAS TAX INCREMENT FUND" (HEREIN CALLED THE "Tax Increment Fund"). Money in the Tax Increment Fund, from whatever source, may be disbursed from the Tax Increment Fund, invested, and paid as permitted by the Act or by any agreements entered into pursuant to the Act, or as otherwise authorized by law.

Sec. 17-27. FINDINGS.

The City hereby finds and declares that (a) improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City; and (b) the Zone meets the requirements of Section 311.005 of the Act, being that the Zone area "be predominantly open or undeveloped, and because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the municipality..."

The City of South Padre Island, pursuant to the Act, further finds and declares that:

1. the proposed zone is a contiguous geographical area located wholly within the City limits or extraterritorial jurisdiction of South Padre Island;
2. less than thirty percent (30%) of the property in the proposed Zone is used for residential purposes, as the term "residential" is defined in Section 311.006(d) of the Act;
3. the total appraised value of the taxable real property in the proposed Zone or in existing reinvestment zones, if any, does not exceed fifty per cent (50%) of the total appraised value of taxable real property in the City and in industrial districts, if any, created by the City;
4. the proposed Zone does not contain more than fifty percent (50%) of the total appraised value of real property taxable by Cameron County and the Point Isabel Independent School District, and
5. development or redevelopment within the boundaries of the proposed Zone will not occur solely through private investment in the reasonably foreseeable future.

Sec. 17-28. DESIGNATION OF A SECTION 311.005(a) ZONE.

The Zone is designated pursuant to Section 311.005(a) of the Act.

Chapter 18

TRAFFIC

Sec.18-1 State traffic regulations in force.

Upon all streets and other public roadways within the City, the Act entitled "Uniform Act Regulating Traffic on Highways" contained in Article 6701d, V.A.C.S., and the rules for safe driving issued by the State Department of Public Safety, shall be in full force and effect in the City.

Sec.18-2 Authority of officials and officers--Enforcement by Police Department; direction of traffic by police and fire officers.

It shall be the duty of the Police Department to enforce the provisions of this Chapter. Officers of the Police Department are authorized to direct all traffic, either in person or by means of visible or audible signal, in conformance with the provisions of this Chapter; provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police or fire department may direct traffic, as conditions may require, notwithstanding the provisions of this Chapter.

Sec.18-3 Same--Making and enforcing regulations, permanent and temporary.

The Chief of Police and/or the Mayor are empowered to make and enforce regulations necessary to make effective the provisions of this Chapter and to make and enforce temporary regulations to cover emergencies or special conditions.

Sec.18-4 Vehicles prohibited on beach; official vehicles excepted.

All motorized vehicular traffic, including, but not limited to, cars, pickup trucks, four-wheel drive vehicles, dune buggies, motor bikes and motorcycles and any propelled vehicle or device of any kind, including, but not limited to, vehicles or devices propelled by wind or other forms of energy, except for bicycles that are powered by pedaling only, are expressly forbidden to use, pass through or come onto the public beaches. This prohibition does not include police vehicles or emergency vehicles while in the performance of their functions, vehicles used for refuse collection, or any other vehicle authorized by permit. (Ord. No. 4, 6-20-73; Ord. No. 4C, 5-18-83)

Sec.18-5 Speed limits--Generally.

No person shall operate or drive any vehicle on any street within the City at a greater speed than thirty (30) miles per hour, unless signs are erected designating another speed in accordance with this Chapter. (Ord. No. 9, 7-18-73)

Sec.18-6 Same--Reasonable and prudent speed required.

Notwithstanding any other provisions of this Chapter, no person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the street in compliance with legal requirements and the duty of all persons to use due care. (Ord. 9, 7-18-73)

Sec.18-7 Same--Reduced speed required for special hazards.

The driver of every vehicle shall, consistent with the requirements of Section 18-6, drive at an appropriate reduced speed when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic, or by reason of weather or street or highway conditions. (Ord. No. 9, 7-18-73)

Sec.18-8 Same--City Council may alter limits, violations unlawful.

The Board may alter the maximum speed limits on any street or portion thereof within the City in accordance with the provisions of Article 6701d, Section 169, V.A.C.S. Whenever signs are posted giving notice of the maximum legal speed limit so established for a particular street or portion thereof, it shall be unlawful for any person to drive or operate any vehicle at a rate of speed in excess of such limit. (Ord. No. 9, 7-18-73)

Sec.18-9 Same--Specific limits established. [amended by Ord 10-11, 15-10]

The following maximum speed limits on Padre Boulevard (Park Road 100), shall be as follows:

(A) Beginning at a point on said Padre Boulevard (Park Road 100) approximately 655 feet north of the center line of Cameron County Beach Access #3 from said point to 965 feet North of the center line of the entrance to Orca Circle, the maximum speed limit shall be 45 miles per hour;

(B) From said point to south to 355 feet North of the centerline of King's Court Drive, the maximum vehicular speed limit shall be 40 miles per hour;

(C) From said point South to a point 120 feet south of the center line of Retama Street the maximum vehicular speed limit shall be 35 miles per hour;

(D) From the point 150 feet south of center line of Retama Street to the South City limit line and also South thence West to a point 490 feet east of the West City limit line, the maximum speed limit shall be 30 miles per hour.

Sec. 18-9.1 Specific Speed Limits

All other speed limits, except for what is established in Sec. 18-9, shall have a maximum speed limit of 30 mph, unless otherwise posted. (Ord. No. 13-06)

Sec.18-10 Traffic control devices--Generally.

All traffic control devices, including signs, signals and markings (pavement and/or curb), installed or used for the purpose of directing and controlling traffic within the City, shall conform to the Texas Manual on Uniform Traffic Control Devices for Streets and Highways (hereafter called the "Manual"). All signs, signals and markings erected or used within the City shall be uniform and be located so far as practicable according to the directions shown in the Manual. (Ord.90,7-1-81)

Sec.18-11 Same--Drivers required to obey.

The driver of any vehicle or animal shall obey the instructions of any official traffic control devices, signs, signals or markings applicable thereto placed in accordance with this Chapter, the Manual, and any Ordinance directing that such traffic control device, sign or signal shall be installed or erected unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle permitted by this Chapter. (Ord. No. 90, 7-1-81)

Sec.18-12 Same--Emergency vehicles excepted.

(A) The driver of any authorized emergency vehicle, as the term "authorized emergency vehicle" is defined by State law, when responding to any emergency call or when in the pursuit of an actual or suspected violator of the law, or when

responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.

- (B) The driver of an authorized emergency vehicle may:
- (1) Park or stand, irrespective of the provision of this Chapter or any other ordinance;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the prima facie speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (Ord. No. 90, 7-1-81)
- (C) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of Section 124 V.A.C.S. 6701d, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from the front of the vehicle.
- (D) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (Ord. No. 90, 7-1-81)

Sec.18-13 Same--Applicable to all governmental vehicles.

The provisions of this Chapter applicable to drivers upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, the State of Texas, or any county, city, City, district or any other political subdivision of the State, subject to such specific exceptions as are set forth in this Chapter with reference to authorized emergency vehicles.

(Ord. No. 90, 7-1-81)

Sec.18-14 Same--Unauthorized devices prohibited.

- (A) No person shall place, maintain or display upon or in view of any highway, street or alley any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal.
- (B) No person shall place or maintain nor shall any public authority permit upon any highway, street or alley, any traffic sign or signal bearing thereon any commercial advertising.
- (C) This Section shall not be deemed to prohibit the erection upon private property adjacent to highways, streets or alleys, of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (D) Every such sign, signal or marking prohibited by this Section is hereby declared to be a public nuisance, and the Chief of Police is empowered to remove the same or cause it to be removed without notice. (Ord. No. 90, 7-1-81)

Sec.18-15 Same--Defacing, etc. prohibited.

No person shall without lawful authority, attempt to or in fact, alter, deface, injure, knock down or remove any official traffic control device, sign or signal, or any railroad sign or signal of any description, shield, or insignia thereon, or any part thereof.

(Ord. No. 90, 7-1-81)

Sec.18-16 Same-- Public Works Department responsible.

The Public Works Department-Service Division shall have the duty of erecting or installing upon, over, along or beside any highway, street or alley, signs, signals and markings, or cause the same to be erected, installed or placed in accordance with this Chapter and consistent with the Manual.

(Ord. No. 90, 7-1-81)

Sec.18-17 Same--Report required by Public Works official.

Whenever the Public Works Department-Service Division, has erected and installed any official traffic control device, signal or sign at any location in the City, or has caused the same to be done under its direction in obedience to this Chapter, the Manual, or another ordinance directing the erection of such device, signal or sign, a report shall thereafter be filed with the City Secretary in writing and signed officially by the supervisor of the Public Works Department-Service Division, stating the type of traffic control device, sign or signal and when and where the same was erected or installed. The City Secretary shall file and maintain such report of the Public Works Department-Service Division among the official papers of the office of the City Secretary. (Ord. No. 90, 7-1-81)

Sec.18-18 Same--Proof in prosecution for violation.

It being unlawful for any person other than the supervisor of the Public Works Department-Service Division, acting pursuant to authority of the City, to install or cause to be installed any signal, sign or device purporting to direct the use of the streets or the activities on those streets of pedestrians, vehicles, motor vehicles or animals, proof, in any prosecution for a violation of this Chapter or any traffic law of the City or State that any traffic control, device, sign, signal or marking was actually in place on any street, shall constitute prima facie evidence that the same was installed by the Public Works Department-Service Division, pursuant to the authority of this Chapter. (Ord. No. 90, 7-1-81)

Sec.18-19 Parking--Generally.

- (A) No person shall stop, stand or park a vehicle in any of the following places:
- (1) At any place where authorized signs or markings prohibit stopping.
 - (2) On any sidewalk.
 - (3) In front of a public or private driveway.
 - (4) Within an intersection.
 - (5) On a crosswalk or within twenty (20) feet of a crosswalk where signs are posted or markings indicate this prohibition.
 - (6) In a safety zone.
 - (7) Within thirty (30) feet of the approach to any flashing beacon, stop sign or traffic-control signal located at the side of the roadway.
 - (8) Within fifty (50) feet of the nearest rail of a railroad crossing.
 - (9) Within fifteen (15) feet of a fire hydrant.
 - (10) Within twenty (20) feet of the driveway entrance to any fire station.
 - (11) Upon any bridge or other elevated structure.

- (12) In any tunnel or underpass unless signs or markings designate the place and type of permissible parking.
- (13) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (14) On the roadway side of any vehicle stopped or parked at the edge of the curb or roadway.
- (15) In any alley or alleyway in such a manner or under such conditions as to block the alley or leave insufficient width for free movement of vehicular traffic. Under no condition is this width to be less than ten (10) feet.
- (16) In any other place or manner so as to restrict the free flow of traffic.
- (17) On or in the area of the unpaved portion of the street right-of-way after the end of the paved street west of the west rights-of-way line of Laguna Boulevard and bordering the Laguna Madre.
- (18) Within 30 feet of the intersection where the side streets (east west) of the City intersect with either Gulf Blvd or Laguna Blvd.
- (19) A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or to provide for safe travel or an emergency. The driver of a motor vehicle shall yield to any bicycle in the lane at all times. As used in this section, the term "designated bicycle lane" shall mean a portion of the roadway or highway that has been designated by the City by striping with signage or striping with pavement markings provided in the Texas Manual on Uniform Traffic Control Devices (TMUTCD) for the preferential or exclusive use of bicycles.
- (B) A person shall not be deemed guilty of violating this Section if such standing, stopping or parking is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, or for a shuttle bus that is picking up or discharging passengers at any place where authorized signs or markings have designated said area or space as a bus stop. (Ord. No. 8A, 6-20-79)

Sec. 18-19.1 Restricted Parking on Residential Streets.

- (A) No person shall stop, stand or park a vehicle in or on the street Right-of-way of the streets east 200 feet from the east Right-of-way line of Padre Boulevard to the West Right-of-way line of Gulf Boulevard between the hours of 8:00 A.M. and 9:00 P.M. from March 1st to September 15th of each year unless said vehicle has affixed in the upper left portion of their windshield and displays a hurricane return sticker issued by the City of South Padre Island.
- (B) Residents holding a driver's license indicating a South Padre Island address or a utility bill for a South Padre Island address or a rental contract of 30 days or longer for property located on one of the side streets east of Padre Boulevard may obtain a visitors permit from City Hall that will be valid for a specified date to allow for gatherings at private homes. Such visitor's permit must be hung on the rear view mirror that will be dated and will be discarded after the date of use.
- (C) Service vehicles (i.e. air conditioning company vehicles, plumbing vehicles, etc) as well as delivery vehicles may park on said streets for a maximum of two (2) hours

without displaying or obtaining a permit. Such service or delivery vehicles must contain markings on the vehicle indicating their business.

- (D) A person shall not be deemed guilty of violating this Section if such standing, stopping or parking is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, or for a shuttle bus that is picking up or discharging passengers.
- (E) The City Council may approve rules, regulation or procedures for the issuance of visitor permits pursuant to this Sec. 18-19.1.
- (F) Streets that are excluded include those streets in a residential zone that are 32 feet wide with curb and gutter and a sidewalk on one side. The following streets that are currently excluded from the application of Sec. 18-19.1 are East Haas, East Mezquite and East Esperanza.

Sec. 18-19.2 Over Night Parking Prohibited on Cul-de-Sacs east of Gulf Blvd.

No person shall stop, stand or park a vehicle in or on a cul-de-sac east of the east Right-of-way line of Gulf Boulevard from March 1 to September 15 between the hours of 12:01 A.M. and 6:00 A.M., except Aurora Circle, Surf Circle and Harbor Circle the prohibited hours are between 2:01 A.M. and 6:00 A.M. (Ord 13-03, 13-03A)

Sec. 18-19.3 Restricted Parking on Residential Streets in "E" District West of Laguna Boulevard.

- (A) No person shall stop, stand or park a vehicle in or on the street Right-of-way of the bay-ending streets in the "E" District that are west of the Right-of-way line of Laguna Boulevard unless said vehicle has affixed in the upper left portion of their windshield and displays a hurricane return sticker issued by the City of South Padre Island.
- (B) Residents holding a driver's license indicating a South Padre Island address or a utility bill for a South Padre Island address or a rental contract of 30 days or longer for property located on any of these bay-ending streets in the "E" District that are west of Laguna Boulevard may obtain a visitors permit from City Hall that will be valid for a specified date to allow for gatherings at private homes. Such visitor's permit must be hung on the rear view mirror that will be dated and will be discarded after the date of use.
- (C) Service vehicles (i.e. air conditioning company vehicles, plumbing vehicles, etc) as well as delivery vehicles may park on said streets for a maximum of two (2) hours without displaying or obtaining a permit. Such service or delivery vehicles must contain markings on the vehicle indicating their business.
- (D) A person shall not be deemed guilty of violating this Section if such standing, stopping or parking is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, or for a shuttle bus that is picking up or discharging passengers.
- (E) The City Council may approve rules, regulation or procedures for the issuance of visitor and landscaping permits pursuant to this Sec. 18-19.3.
- (F) City Hall may issue landscaping permits to landowners to landscape the unpaved portions of the rights-of-way located on bay ending streets, west of Laguna Boulevard and located in the "E" District if their property is adjacent to or abuts the rights-of-way.

- (G) The City will post appropriate signage to indicate that these bay-ending streets in this district are not a public thoroughfare and that parking is restricted to residents or individuals with permits. (Ord 14-08)

Sec. 18-19.4. Paid Parking in or on a cul-de-sac east of the east right-of-way line of Gulf Boulevard and Gulf Boulevard from March 1 to September 15

(A)No person shall stop, stand or park a vehicle in or on Gulf Blvd or a cul-de-sac east of Gulf Blvd with out paying a parking fee as herein provided:

(1) \$6.00 for six hours from the hours of 8:00 am to 8:00 pm; except parking is prohibited in the cul-de-sacs east of the east Right-of-way line of Gulf Boulevard between the hours of 12:01 A.M. and 6:00 A.M., except Aurora Circle, Surf Circle and Harbor Circle the prohibited hours are between 2:01 A.M. and 6:00 A.M. When permitted, parking is restricted to designated spaces on the westerly side of Gulf Boulevard and at Beach access cul-de-sacs on the easterly side of Gulf Boulevard; during the hours that parking is permitted at cul-de-sacs Harbor, Surf, and Aurora it shall be without a parking fee (free).

(2) A \$50.00 season pass will be available for purchase at the Police Station in City Hall;

(3) Vehicles are limited to remaining in one parking space for a maximum twenty-four hour period.

(4) Payment can be made by credit card by contacting the phone number on the sign by cell phone or other mobile device, as this is an internet based parking system and at the locations where season passes are made available.

(B) Over night parking is still prohibited in the Cul-de-sacs per Sec. 18-19.2 of the Code of Ordinances.

(C) In compliance with Chapter 681 of the Texas Transportation Code persons with disabilities are exempt from the payment of any fees if the vehicle is displaying an appropriate license plate or disabled parking placard. This does not permit parking at a time when or a place where parking is prohibited.

Sec.18-20 Same--Padre Boulevard (Park Road 100)

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, at any time upon or within the boundaries of Padre Boulevard, also known as Park Road 100. (Ord. No. 91)

Sec. 18-21 Presumption.

Any offense under subchapter G of Chapter 545 of the Transportation Code of the State of Texas or this Code of Ordinances in a prosecution of offenses involving the stopping, standing, or parking of an unattended motor vehicle it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.

Sec. 18-22 Through Truck Traffic Prohibited on Laguna Boulevard and Gulf Boulevard.

No truck over one (1) ton may travel on Gulf Boulevard and/or Laguna Boulevard as a through route, and any truck over one (1) ton that travels more than two (2) blocks on Gulf Boulevard or Laguna Boulevard shall be in violation of this Section, except for trucks stopping at successive addresses on said streets. Trucks over one (1) ton shall go to an address on Gulf or Laguna Boulevard from Padre Boulevard via the closest side street (east or west streets) to the address and return to Padre Boulevard via the closest side street.

[Sec. 18-23 -18-29 reserved]

Sec. 18-30. GOLF CARTS.

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

Driver: means the person driving and having physical control over the motorized cart.

Motorized cart: means those electric and gasoline powered carts, commonly referred to as golf carts, but which must have a minimum of four (4) wheels and which have an attainable top speed not greater than twenty-five (25) miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as ATVs, four-wheelers, mules, and gators.

Owner: means the person holding title to the motorized cart.

Parking area: means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

Street: means the public roadways of the City of South Padre Island by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that:

- (1) Has a posted speed limit of thirty-five (35) miles per hour or less; or
- (2) Provides for no more than two (2) lanes of vehicular traffic per direction.

(B) Electric and gasoline motorized cart required equipment.

Every motorized cart must be equipped as mandated by the Texas Transportation Code, Section 551.404(a) and/or required by the City of South Padre Island the following:

- (1) Operational headlamps;
- (2) Operational tail lamps;
- (3) Side reflectors;
- (4) Operational parking brake; and
- (5) Rearview mirror(s).
- (6) A reflective triangle shaped slow-moving sign attached and facing to the rear;
- (7) Owners of motorized cart must carry valid liability insurance for said cart in the minimum amount required by State law for the operators of a motor vehicle or the driver must carry proof that he/she has such liability insurance.
- ~~(8) Driven during daylight hours only.~~ [Deleted per Ordinance 13-11 August 2013]
- (9) Be permitted thru the city and display a current (annual) sticker permit or license plate at the cost of \$50 per cart (annual fee) and a \$25 replacement fee.
- (10) Seatbelts for all passengers or occupants.

(C). Gasoline carts.

Every motorized cart powered by gasoline shall at all times be equipped with an exhaust system in good working order and in constant operation and meeting the following specifications:

(1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or including any and all parts specified by the manufacturer.

(2) The exhaust system and its elements shall be securely fastened with brackets or hangers, which are designed for the particular purpose of fastening motorized cart exhaust systems.

(3) The engine and powered mechanism of every motorized cart shall be so equipped, adjusted and tuned so that the exhaust is the amount of a motorized cart in good working order.

(4) It shall be unlawful for the owner of any motorized cart to operate or permit the operation of such cart on which any device controlling or abating atmospheric emissions which is placed on a cart by the manufacturer is rendered unserviceable by removal, alteration or which interferes with its operation.

(D) Operation regulations.

(1) All drivers of motorized carts shall hold a valid Texas driver's license and shall abide by all traffic regulations applicable to vehicular traffic when using the authorized streets and parking areas of the city.

(2) Motorized carts shall not be operated on sidewalks at any time.

(3) All motorized carts are entitled to a full use of a lane on the authorized streets and parking areas of the city and no motor vehicle shall be driven in such a manner as to deprive any motorized cart of the full use of a lane.

(4) The driver of a motorized cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(5) No driver shall operate a motorized cart between lanes of traffic or between adjacent lines of rows of vehicles.

(6) The occupancy of the motorized cart may not exceed the manufactures maximum rating for number of passengers or occupants.

(7) Motorized carts may only be operated on streets that have a posted speed limit of thirty-five (35) miles per hour or less.

(E) Liability.

Nothing in this Section shall be construed as an assumption of liability by the City of South Padre Island for any injuries to persons, pets or property which may result from the operation of a motorized cart by an authorized driver.

Owners are fully liable and accountable for the actions of any individual that they provide permission to operate and drive said motorized cart, both on personal and/or city and public properties. This described liability responsibility especially applies to personal injuries or property damage resulting from motorized cart drivers who are minors under the age of twenty-one (21) with or without a current and valid Texas drivers license.

(F). Penalties.

Any person who violates the terms of this Section shall be penalized as provided by Sec. 21-1 of the Code of Ordinances.

Chapter 19

UTILITIES

Sec.19-1 Electric power franchise granted.

The City has granted to Central Power and Light Company an electric light, heat and power franchise pursuant to Ordinance No. 1, June 6, 1973.

Sec.19-2 Electric power rates approved.

The City has approved the rate schedules of Central Power and Light Company effective within the City, pursuant to Ordinance No. 100, July 21, 1982.

Sec.19-3 Telephone facilities provided.

The City has contracted with Southwestern Bell Telephone Company for the maintenance of telephone facilities and services within the City, pursuant to Ordinance No. 13, August 15, 1973.

Sec.19-4 Cable communications franchise.

The City has granted to Cablevision Associates V (Heritage Cablevision) a cable communications franchise to operate a two-way cable communications system within the City, pursuant to Ordinance No. 26, December 4, 1974, Ordinance No. 26A, April 5, 1974 and Ordinance No. 26B, December 2, 1981.

Sec.19-5 Underground Utilities.

All new services (drops) of any utility first installed at a customer's premises after October 23, 1991 shall be underground in accordance with specifications and policies of the utility supplying said service."

Chapter 20

ZONING*

Sec.20.1 Short title.

These regulations shall be known and may be cited and referred to as the "City of South Padre Island Zoning Ordinance." *Editor's Note - Ordinance No. 77, the Zoning Ordinance, adopted and effective on November 9, 1979, is herein set forth as codified, supplemented and modified

Sec.20-2 Same--Zoning, adoption of statute.

The provisions of Chapter 283, of the acts of the regular session of the 40th Legislature of the State of Texas (Now codified as Chapter 211 of the Local Government Code), relating to zoning in cities and Cities in the State, are hereby adopted as the law governing the zoning of the territory lying within the incorporated limits of the City.

Sec.20-3 Definitions.

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural number; the words in the plural number include the singular number; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; the word "shall" is mandatory and not discretionary.

Accessory building or use: A subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

Alley: A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alteration: Any addition, removal, extension, or change in the location of any exterior wall of a main building or accessory building.

Amusement center: An amusement center is a business wherein there are located machines which require the deposit of money therein to be activated for an individual's entertainment, and from which said business establishment derives fifty percent (50%) or more of its gross income.

Amusement Redemption Machine: means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment: Any business location that has more than three (3) Amusement Redemption Machines is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an Amusement Redemption Machine Establishment.

Amusement Redemption Machine Specific Use Permit: means a permit to operate an Amusement Redemption Machine Establishment.

Apartment: A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

Apartment house: A building or portion thereof arranged, intended or designed for three (3) or more families or housekeeping units living independently of each other.

Bar: means any commercial establishment that derives fifty-one percent (51%) or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premise consumption license issued by the Texas Alcoholic Beverage Commission.

Building: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two (2) buildings connected by a breezeway shall be deemed as one building.

Coin operated laundries: A business establishment wherein there are washing and drying machines being used by the general public by the deposit of money therein and wherein they can cause wearing apparel and other personal items to be laundered. (Ord. No. 2D, 6-16-76)

Condominium: The separate ownership of single units or apartments in a multiple unit structure or structures with common elements. (as defined by the Texas Property Code)

Convenience storage facilities: A masonry structure which is partitioned into small sections for the purpose of renting individual storage rooms to individuals or corporations for the purpose of storing belongings but from which there will be no general storage business or warehousing business operated or any other type of business operation.

Customary home occupations: Occupations ordinarily carried on in a home that are not detrimental or injurious to adjoining property. These may include serving meals or renting rooms to not more than five (5) persons and not members of the household, dressmaking, millinery, washing and ironing. Customary home occupations shall not include barber shop, flower shops, carpenter shops, electrician, plumbers' shops, radio shops, tanners shops, transfer or moving van offices, auto repairing or sign painting.

Dental Clinics: a facility that is involved in the study, diagnosis, prevention, and treatment of diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures and their impact on the human body.

Depth of Lot: The mean horizontal distance between the front and the rear lot lines.

Depth of Rear Yard: The mean horizontal distance between the rear line of a building other than an accessory building and the center line of the alley where an alley exists, otherwise the rear lot line.

District: A section of the City for which the regulations governing the area, height and use of buildings are uniform.

Dwelling: A building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family and multiple family structures, boarding and lodging houses, apartment houses, but not hotels, house trailers or mobile homes.

Dwelling, Multi-Family: A building intended or designed as a residence for more than one (1) family or housekeeping units living independently of each other. (Ord 07-10, 8-1-2007)

Dwelling, One-Family: A detached building arranged, intended or designed for occupancy by one (1) family.

Dwelling, Two-Family: A building arranged, intended or designed for occupancy by two (2) families.

Family: Any number of individuals living together as a single housekeeping unit; as distinguished from a group occupying a boarding house or hotel.

Food Establishment: means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside vendor. The words "food service establishment" shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including retail restaurant, food store, , bars, nite clubs, saloon, cantinas, taverns, pubs, bakeries, schools, day cares, continental breakfast (hotel/motel), catering establishments, commissary, delicatessen-type operations that prepares sandwiches intended for individual portion, group residence, bed and breakfast, or any operation that is conducted from a mobile unit. The term applies regardless of whether there is a charge for food. The term does not include private homes where food is prepared or served for individual family consumption, the location of food vending machines and supply vehicles.

Front-of-building area: That area located between the front property line and the building facade and extending from side property line to side property line.

Front Yard: A yard across the full width of the lot from the front line of the main building to the front line of the lot.

Garage: An accessory building principally for storage of motor vehicles.

Garbage, Garbage Container Locations, Garbage Container Requirements: All development over the occupancy of a four-plex and all commercial development must dedicate a space within its development plans to locate and maintain a garbage container. The space designated for the location of the garbage container cannot be located in the public right-of-way, cannot be located in the front-yard setback, and cannot diminish and/or occupy areas designated for parking. It is further required that all garbage containers and the area designated for its location must be enclosed and/or screened from the public's view.

General Hospital: The term "general hospital" means any establishment offering services, facilities, and beds for use for more than twenty-four (24) hours for two (2) or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy, and regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

Gross Floor Area: The gross floor area of a building shall be measured by taking outside dimensions of the building at each floor, excluding the floor area of basements or attics when not occupied as living quarters.

Height: The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher, to the highest point of the roof's surface if a flat surface; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for hip or gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, radio towers, ornamental cupolas, domes or spires, elevator penthouses, tanks, water towers and parapet walls not exceeding four (4) feet in height.

Hotels and Motels: A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve (12) sleeping rooms, and no provisions for cooking in individual rooms.

Impound Lot: a garage, parking lot, or any other facility or area having the capacity to hold vehicles; which is owned or operated by any person other than a governmental entity; and the primary purpose of which is the involuntary storage of vehicles (i.e., towed vehicles).

Institution: A building occupied by a non-profit corporation or non-profit establishment for public use.

Landscaping/Landscaping Material: shall consist of live plant materials that achieve a minimum of 80% coverage of the required dedicated area within one year of planting.

Linen Cabinet: a stand-alone structure that allows for the storage of linens and as a drop-off location for service companies to replace soiled linens for clean, pressed linens."

Lot: Land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or officially approved place.

Lot Front line: The line of an interior lot which is adjacent to the street. On corner lots, it is the prolongation of the front lot line of adjacent interior lots as originally platted.

Lot Lines: The lines bounding a lot as defined herein.

Lot Rear Line: The boundary line which is opposite and most distant from the front lot line.

Lot Corner: A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the building inspector.

Nightclub: Any business holding a mixed beverage permit from the Texas Alcoholic Beverage Commission or the appropriate State agency.

Non-Conforming Uses: A building or premises occupied by a use that does not conform to the regulations of the use in the district in which it is situated.

Non-Residential Uses: any uses other than a residential use. In calculating number of parking spaces, the category of non-residential uses does not include "storage/warehousing" that is freestanding and separate from other uses, and also not include "outdoor amusement or theme park" establishments.

Open Spaces: Area included in any side, rear or front yard of a lot other than the building space which is measured as the outside dimensions of the floor area of the building. Therefore, in determining the percent of coverage of buildings allowed on a lot, the projections of the buildings, such as eaves, cornices, porches, stairways, carports, etc., are considered as open spaces and not building space.

Parking, Parking Requirements, Off-Street Parking. All parking requirements of a building or premises must be provided on the same site/land for which the building permit is issued, and the same may not be located on any property that is not contiguous and joined to the building site, unless a permit for an off-premise parking lot has been approved in accordance with the requirements of Section 20-7(D)(5)(n) or Section 20-8(F)(5)(h). All parking areas, and access thereto must be of a concrete or asphalt surface. All parking lot construction shall conform to Article 2, Section 2.18, Parking Lots, of the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas.

Permitee: means a person in whose name a Specific Use Permit to operate a Amusement Redemption Machine Premise has been issued.

Persons: The word "person" shall, for the purpose of this ordinance, mean every person, firm, co-partnership, association, partnership, corporation or society; and the term "person" shall include both singular and plural and the masculine shall embrace the feminine gender.

Places of Worship: A facility principally used for people to gather together for public worship, religious training, or other religious activities. This use does not include home meetings or other religious activities conducted in a privately occupied residence.

Planned Development District: Any separate zoning district created pursuant to the provisions of Section 20-23 of the City of South Padre Island Zoning Ordinance.

Planned Unit Development: Any master-planned real estate development, encompassing one or more authorized land uses, which is created pursuant to Section 20-2 of this Chapter.

Permanent Makeup: coloring applied to the face, or to any other part of the body to improve the appearance of birthmarks, scars, burns, or other disfiguring conditions of the skin.

Primary Care physician's Office: is a facility which provides both the first contact for a person with an undiagnosed health concern as well as continuing care of varied medical conditions, not limited by cause, organ system, or diagnosis.

Public facility: means any property owned and/or operated by the City of South Padre Island or any governmental entity.

Public Service Facility : A building, structure, or group thereof, which is intended to be used as, or perform as, a public utility, is considered to be and is defined as a PUBLIC SERVICE FACILITY. Electrical power plants, electrical power distribution substations, any form of antennas or towers twelve (12) feet or greater in height, water and sewer treatment plants or pumping stations, sewage lift stations, and other similar public service structures are examples of PUBLIC SERVICE FACILITIES. A PUBLIC SERVICE FACILITY may be publicly or privately owned, and may be regulated by the state, municipality, or other governmental agency; the primary purpose of such a facility is to provide to the public electrical, gas, transport, communications, water, sewage, and other such services. The erection, construction, alteration, operation or maintenance of a PUBLIC SERVICE FACILITY is regulated by this Ordinance; however, all underground facilities and mains or minor above ground facilities such as electrical transformers, sewer cleanouts, cable T.V. connection boxes, antennas or towers less than twelve (12) feet in height, water meters, and the like are exempt from this definition.

Recreational Center: A building which is totally enclosed, both with ceilings and walls, within which there is located facilities for the conduct of sports and other related recreational activities and there may be located outdoor swimming pools directly adjacent to said enclosed facilities and which are an integral part of the main facility. Any recreational center may also have located within the sport facilities a pro shop wherein items are sold in connection with sports and recreational activities, a nursery to care for the children of the participants, and a beauty shop for the participants located therein. (Ord. No. 2H, 10-20-76)

Rear Yard: A yard between the rear lot line and the rear line of the main building and the side lot lines.

Side-of-building-area: For corner lots, that area located between the street side property line and the building façade extended from the front of building area to the rear property line.

Side Yard: A yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

Special Hospital: The term "special hospital" means any establishment offering services, facilities, and beds for use for more than twenty-four (24) hours for two (2) or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care, and has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment, has a medical staff in regular attendance, and maintains records of the clinical work performed for each patient.

Street: Any public thoroughfare dedicated to the public and not designated as an alley.

Story: That portion of a building between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above.

Structural Alterations: Any change in the supporting member of a building such as bearing walls, columns, beams or girders.

Substance Abuse Treatment Facility: may be any facility that offers treatment for persons with chemical dependency and conforms to license requirements of the Texas Health and Safety Code. This definition of Substance Abuse Treatment Facility shall include faith-based chemical dependency treatment programs that are exempt from licensure by the Texas Department of Health. This definition of Substance Abuse Treatment Facility does not include hospital narcotic drug detoxification treatment.

Tandem Parking: For single-family dwellings, two-family dwellings, Townhouses, and those multi-family developments of twelve (12) units or less which provide fully enclosed individual garages or carports or open uncovered parking for each dwelling unit, tandem parking spaces may be used as a design option in meeting the parking requirements of this Ordinance. The use of tandem parking shall meet the following requirements:

- (a) A tandem parking space shall be a minimum of nine (9) feet in width and thirty-six (36) feet in length, and shall count as the equivalent of two, regular parking spaces, with a minimum of nine (9) feet wide by eighteen (18) feet long per parking space.
- (b) Tandem parking spaces shall only be permitted for those multi-family projects of twelve (12) units or less in which individual fully enclosed garages or individual carports or individual open uncovered parking spaces are provided for each individual dwelling unit, and where each nine foot (9') by thirty-six foot (36') or larger tandem parking space whether covered or uncovered shall be dedicated to a specific dwelling unit by means of a restrictive covenant or condominium declaration, firmly binding the assignment of the clearly marked parking spaces to a specific dwelling unit in the project. A copy of the recorded document reflecting the book and page of the Cameron County Clerk's records where the document will be found shall be placed on file in the offices of the South Padre Island Planning and Building Department prior to the initiation of such tandem parking.
- (c) All tandem parking spaces shall be entirely located upon private property. No portion of any tandem parking space shall utilize the public right-of-way or other public property.
- (d) Tandem parking spaces shall be paved in either a concrete, asphalt, or paver block surface.

Townhouse: A Townhouse is a single-family dwelling unit constructed in a series or group of attached units with property lines separating such units. (Ord. No. 77B, 7-1-81)

Travel Trailer park: An area designed and used for the temporary occupation by automobile trailers and providing for one (1) or more of such quarters.

Tree: Palm trees 5 trunk feet or greater; and evergreen trees, canopy/shade trees, ornamental trees having a minimum trunk caliper of three inches or more at planting, or a height of seven feet or more at planting as measured from the ground to the point at which the lowest branches sprout from the tree.

Urgent Care Centers: provide walk-in, extended hour access for acute illness and injury care that is either beyond the scope or availability of the typical primary care practice or retail clinic.

Width of Side Yard: The horizontal distance between the side wall of a building which includes eaves, cornices, porches, stairways, carports or any projection of the building and the side line of the lot.

Yard: An open space of ground between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Sec.20-4 Districts.

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration, moving or use of buildings, structures or land, all lands within the corporate limits of the City are hereby divided into districts with their respective classification as follows:

"A"	Single family dwelling district	"TCC"	Town Center Crossing Character Zone
"E"	Low Density Residential—Single Family and Townhouse Dwelling District	"PBN"	Padre Boulevard North Character Zone
"B"	Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district.	"PBS"	Padre Boulevard South Character Zone
"B-2"	Residential and Multi-Family Dwelling District	"PBC"	Padre Boulevard Central Character Zone
"C"	Business District Fire Zone	"NT"	Neighborhood Transition Character Zone
Appendix "Z"	Padre Boulevard and Entertainment District Code	"NRD"	Northern Resort District Character Zone
"BF"	Bayfront Character Zone	"PDD"	Planned Development District
"EDC"	Entertainment District Core Character Zone	"D"	Resort area district
"NC"	Neighborhood Crossing Character Zone	"D-1"	Resort Area District
		"D-2"	Park District

No land shall be used for and no building shall be erected for or converted to, any use other than provided in the regulations prescribed for the District in which it is located, except as hereinafter provided. [Ord. 11-15]

Sect. 20-4.1 Determination of Allowed Uses within each Zoning District.

In such instances that a land use is not specifically noted in any of the lists of allowable uses within the text of this Zoning Ordinance, the Planning and Zoning Commission shall determine the zoning district(s) most appropriate for the proposed use, based upon a similar level of use listed within each District. Any person aggrieved by the decision of the Planning and Zoning Commission may, within ten (10) days of the decision, appeal that decision to the City Council and its decision will be final. [Ord 02-13]

Sec. 20-4.2 Staff Responsibility.

(A) Assistance to Citizen Committees. The Citizen Committees include the Planning and Zoning Commission, Board of Adjustment, Development Standards Review Task Force, and any other development-related committees created by the City Council. The staff shall provide technical assistance to and be responsible for scheduling meetings, providing agendas and public notice of meetings, reviewing and providing professional recommendations, and maintaining public records of the Citizen Committees' findings and decisions.

(B) Collection of Information. To provide assistance necessary to carry out the functions of the citizen committees, the staff may request and obtain information from all parties, including applicant(s), service providers, and other related agencies.

Sec.20-5 District map.

(A) Boundaries of the districts, as enumerated in Section 20-4, are hereby established as shown on a map prepared for that purpose, which map is hereby designated as the "Zoning District Map"; and said map and all the notations, references and information shown thereon is hereby made as much a part of this ordinance as if the same were set forth in full herein. The City shall keep on file in its offices an authentic copy of said map, and all changes, amendments or additions thereto.

(B) When definite distances in feet are not shown on the Zoning District Map, the district boundaries are intended to be along existing street, alley or platted lot lines, or extensions of the same, and if the exact location of such lines is not clear, it shall be determined by the City Council, due consideration being given to location as indicated by the scale of the Zoning District Map.

(C) When streets or alleys on the ground differ from the streets or alleys as shown on the Zoning District Map, the Board may apply the district designations on the map to the streets or alleys on the ground in such a manner as to conform to the intent and purpose of this ordinance.

(D) Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the center line of any such street or alley. Whenever a street or alley is dedicated, the zoning district within the area dedicated shall be void.

Sec.20-5.1 Initial Zoning for Annexed Lands

Property owners have the opportunity to negotiate with the City to determine appropriate zoning of annexed land prior to annexation through discussions with the Planning and Zoning Commission, which will provide its recommendation to the City Council. In such case, the property annexed into the City of South Padre Island shall be zoned as stated within the City's Annexation Plan for the designated area effective the date of annexation. However, if negotiations of zoning do not take place prior to annexation, property annexed into the City of South Padre Island shall be zoned "A" Residential, Single Family District effective concurrently with the date of official annexation. This temporary zoning classification shall remain in effect until a change therein is approved by the City Council. Within 180 days after the date of official annexation, the Planning and Zoning Commission shall review and provide specific zoning recommendations to the City Council as to the appropriate zoning for such annexed area.

Sec.20-6 District "A" - Single family dwelling district.

(A) Use regulations:

- (1) Dwellings, one family.
- (2) Accessory buildings, including a private garage and bona fide servants' quarters, not for rent. When the accessory building is directly attached to the main building it shall be considered an integral part of the building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. The floor area of all accessory buildings on the lot shall not exceed 50% of the floor area of the principal structure.
- (3) Temporary buildings to be used for construction purposes only and which shall be removed upon completion or abandonment of construction work.
- (4) Field offices for the sale of real estate for the specified development which shall be used for temporary offices only, to be removed after sales are closed, and to be used on the site only. A building permit is required for the installation of a field office and shall be valid for a one (1) year period, renewable upon expiration if sales are still active.
- (5) Special Exceptions: Public Service Facility. (Ord 96-05. 10-2-96); Residential accessory uses in a vacant lot that is contiguous with a

residential single family lot having a principal building under common ownership.

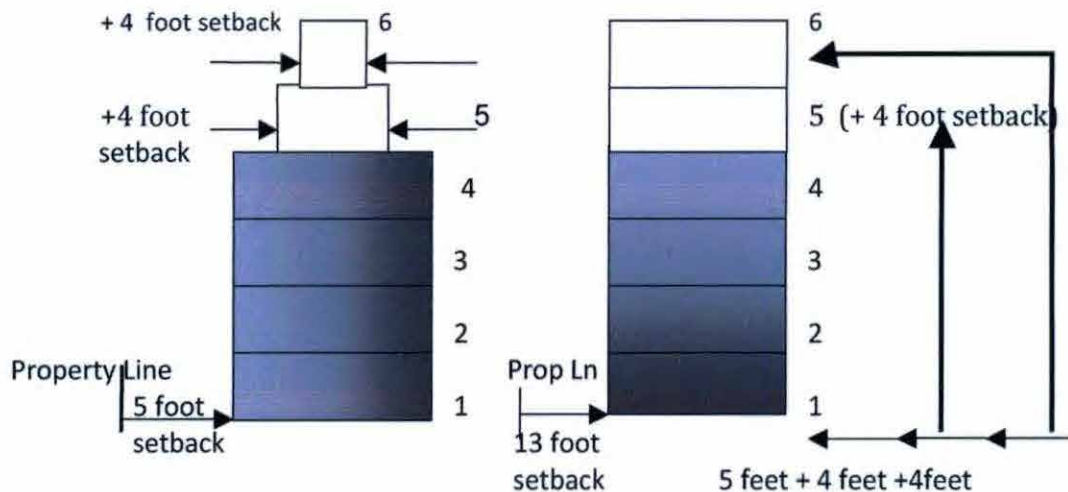
- (6) Rentals of less than 30 days are prohibited. (Ord 00-10)
- (B) Height regulations: No building shall exceed forty-five (45) feet, when measured vertically from the center line of the street to the highest point of the building.
- (C) Area regulations:
 - (1) Front yards:
 - (a) There shall be a front yard having a minimum depth of twenty-five (25) feet except all lots facing the Gulf of Mexico on the East side of Gulf Boulevard may have a front yard depth of no less than ten feet (10') from the lot line.
 - (b) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (2) Side yards:
 - (a) There shall be a side yard on each side of the lot having a clear width of not less than five (5) feet, including projections of the side of the building such as eaves, cornices, porches, stairways, carports, etc.
 - (b) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than ten (10) feet.
 - (c) Where canals, bay front, beach front, and/or yacht basins occur at the side of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
 - (3) Rear yards:
 - (a) There shall be a rear yard having a depth of not less than twenty (20) feet from the rear lot line
 - (b) Where canals, bayfront, beach front, and/or yacht basins occur at rear of lots, buildings may extend to the bulkhead.
 - (c) Where canals and yacht basins occur at rear of lots, boathouses may extend twenty feet (20') into the water provided that the structure is less than twelve feet (12') in height, is open construction, has no bathroom facilities and observes the sideyard set back as if the property lines were extended.
 - (4) Area of lot: the minimum area of a lot shall be 5,000 square feet, except no person may replat any lot within Padre Beach Subdivision, Section XII that is Single-Family Residential (District "A") to cause it to be smaller than it was platted in the original subdivision plat.
 - (5) Width of lot: The minimum width of a lot shall be fifty (50) feet.
 - (6) Depth of lot: The minimum depth of a lot shall be one hundred (100) feet.
 - (7) Area of building: The minimum area of a dwelling structure shall be 2,000 square feet in any lot in Block 192 and a minimum of 1,200 square feet in all other lots in the single family district. In the case of two or more stories, the area requirements shall apply to the ground floor.
 - (8) Sanitation: There shall be no sewage disposal without water carriage. Chemical toilets may be erected on a temporary basis during construction only.

- (9) Type of construction-Padre Beach Section XII: All buildings erected on any portion of Padre Beach Section XII must be of masonry or reinforced concrete construction from the ground floor to the second floor living area. This, however, will not preclude the use of wood material for roof members, windows, doors and for decorative effects. For the purpose of this sub-section only, masonry may include the use of brick veneer.

Sec.20-7 District "B" -Multi-family dwelling, apartment, motel, hotel, condominium, Townhouse district.

- (A) Area, width, and depth of lots, sanitation and temporary building provisions are the same as District "A", except Townhouse lots must have a minimum frontage of twenty five (25') feet; a minimum width of twenty-five (25') feet; a minimum depth of one-hundred feet (100'); and a minimum area of two thousand five hundred square feet (2,500 sq. ft.).
- (B) Use Regulations: In District "B", no land shall be used and no buildings shall be erected for or converted to any use other than:
- (1) Single family dwellings, multi-family dwellings; apartment buildings, children's nurseries, hotels, motels, condominiums and Townhouses. Only condominiums, hotels and motels with more than twelve (12) units may have included within the premises such businesses as bars, food establishments, barber shops, beauty parlors and other similar businesses if such business is for the convenience of the occupants of the building and is definitely an integral part of the services of such hotel, condominium or motel.
 - (2) Private clubs, fraternities, sororities and lodges, that operate solely for the benefit of their members; a church; public school; a private or parochial school having a curriculum equivalent to a public elementary or high school.
 - (3) Townhouses.
 - (4) Incidental uses to any of the above specified uses include, but are not limited to, customary home occupations when engaged in by the private dwelling occupant. Examples are : a dressmaker, the office of a physician, surgeon or dentist, a musician or artist studio. Said incidental use, however, shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises by the private dwelling occupant.
 - (5) Special Exceptions: Public Service Facility. (Ord 96-05. 10-2-96; 98-04)
 - (6) Specific Use Permits: Substance Abuse Treatment Facilities, General Hospitals, Special Hospitals, Primary Care Physicians Office, Urgent Care Centers, Dental Clinics may be granted Specific Use Permits in accordance with Section 20-24 Specific Use Permits.
- (C) Height regulations: Up to four (4) standard stories. [see Sec.20-7(D)(2) for additional floors authorized]
- (D) Area regulations:

- (1) Front yards: Same as District "A" (minimum of 25') except all lots facing the Gulf of Mexico on the east side and lots fronting the west side right-of-way line of Gulf Boulevard from Section I through Section XII, Padre Beach Subdivision, and all lots in Sunny Isle and Haas Subdivision, may have a front yard depth of not less than ten (10) feet from lot line on the west Gulf Boulevard right-of-way line. The minimum front yard shall be increased one (1) foot for each two (2) feet in height if a building exceeds six (6) standard stories.
- (2) Side Yards Additional Floors Authorized – Additional floors above four standard stories may be permitted if additional setbacks are provided as follows:



5 foot setback from property line for four standard stories. Add four feet to the setback requirement for each additional floor above four standard stories

5 foot setback from property line for four standard stories. Add four feet to the set back on all floors for each floor.

- (3) Rear yards:
 - (a) Same as District "A" (minimum of 20'), except that the structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have such enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the 20 feet rear yard setback within 10 feet of the rear property line as provided for above, shall only be erected or placed in such a manner after a permit specifically therefor is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance. (Ord. No. 77E.)

- (b) Minimum rear yard depth shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.
- (4) Size of structure: The minimum size of structure is six hundred (600) square feet, except within Padre Beach Section XII, which shall be twelve hundred (1,200) square feet except Blocks 178, 191, and 192 which shall be 2,000 square feet.

Sec.20-7.1 District "B-2" – Residential & Multi-family Dwelling District.

- (A) Area, width, and depth of lots, sanitation and temporary building provisions are the same as District "A", except townhouse lots must have a minimum frontage of twenty five (25') feet; a minimum width of twenty-five (25') feet; a minimum depth of one hundred feet (100'); and a minimum area of two thousand five hundred square feet (2,500 sq. ft.).
- (B) Use Regulations: In District "B-2", no land shall be used and no buildings shall be erected for or converted to any use other than:
 - (1) Single family dwellings, multi-family dwellings; apartment buildings, condominiums and Townhomes.
 - (2) Incidental uses to any of the above specified uses include, but are not limited to, customary home occupations when engaged in by the private dwelling occupant. Said incidental use, however, shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises by the private dwelling occupant.
 - (3) Special Exceptions: Public Service Facility.
 - (4) Specific Use Permit: Off-site parking spaces in excess of required spaces from a different zoning district.
- (C) Height regulations: No building shall exceed three stories. The height shall be restricted to fifty (50) feet above the FEMA Base Flood Elevation.
- (D) Area regulations:
 - (1) Front yards: Same as District "A" (minimum of 25'), except that all lots fronting the west side right-of-way line of Gulf Boulevard may have a front yard setback of ten (10) feet from the property line abutting the west Gulf Boulevard right-of-way line.
 - (2) Side Yards: Same as District "A" (minimum of 5').
 - (3) Rear yards: Same as District "A" (minimum of 20'), except that the structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have such enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the 20 feet rear yard setback within 10 feet of the rear property line as provided for above, shall only be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance.
 - (4) Size of structure: The minimum size of structure is twelve hundred (1200) square feet.

- (E) Any condominium building which exists on Feb 1, 2010 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on Feb 1, 2010.
- (F) Any structure which exists on Feb 1, 2010 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on Feb 1, 2010.
- (G) Any land use that exists on Feb 1, 2010 that does not conform to the standards of the B-2 District shall be deemed a conforming use and may continue the use as it was on Feb 1, 2010.

Sec.20-8 District "C" - Business district -- Fire Zone.

- (A) Area, width and depth of lots, sanitation and temporary building provisions are the same as District "A".
- (B) **Allowed Uses:** The purpose and intent the "C" District is composed of those activities of the City whose principal use is and ought to be general business activities which provides basic and necessary goods and services for the community and its visitors and the following are the allowed uses in the district:
 - (1) Any use authorized in the "B" Zoning District.
 - (2) The following:
 - Dental Clinics, General and Special Hospitals, Primary Care Physician's Offices, Urgent Care Centers
 - Commercial Parking Facility – A vehicle parking facility that is operated as a business enterprise by charging a fee for parking which must provide Streetscape and Perimeter Landscaping for Commercial Parking Facilities (Not applicable to Temporary Commercial Parking Facilities) with the following requirements:
 - a. Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
 - b. Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.
 - c. For parking lot edges adjacent to streets, parks or other public open space, provide the following:
 - at least one row of shade trees, spaced evenly at 5' to 6' intervals (or as appropriate to the selected species) for the length of the parking lot edge
 - screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.
 - d. Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.
 - e. Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.

f Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.

g Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.

h Coordinate tree planting with the location of light standards and other utilities.

General Office Uses - a place of business that generally provides services instead of goods and entails, desks, files, paperwork, mail, computer, phones, etc. that would include most professional services (i.e. attorney offices; travel agencies; consultants, engineers, and architects; general building contractor and subcontractor services; title companies, banks, mortgage and other financial service companies; real estate businesses; drafting / graphic design businesses; art studios; post offices and other governmental buildings)

Retail stores - any place of business where the customer / general public can purchase goods, generally for off sight use and/or consumption. (i.e. antiques; arts and crafts & art galleries; apparel & accessories & alterations; books and curio shops; bicycle, vehicle, and water sport sales & rental; pharmacy, dry goods & general merchandise; liquor, cigarette, & cigar stores; newsstands; hardware stores; office supply & printing; photography development & supply; gasoline service stations, etc.)

Food & Beverage Service Providers - places of business where food and beverages can be purchased for on or off site consumption. (i.e. Grocery stores, restaurants, bars/nightclubs, cafés, specialty food shops / bakeries, & caterers.)

Personal Services - places of business where the general public can go to receive general body and grooming services. (i.e. Barber & beauty shops, nail grooming services; tanning, massage & spa facilities.) However, tattoo and body piercing studios / facilities are specifically not allowed uses within this district.

Repair Services - business that provide small-scale repair services for items of the general public (i.e. watch, clock & jewelry repair; TV / VCR repair; shoe and apparel alteration facilities; bicycle and vehicle repair; household appliance & general electric repair; reupholstery & furniture repair; etc.)

Meeting Location Facilities - indoor facilities that provide opportunities for organized education, and / or the assembly of people (i.e. Primary, secondary, vocation/technical, and university level educational facilities; drivers education facilities; art, dance & music schools / studios; religious places of worship; civic, social, & fraternal organizations; etc.)

Miscellaneous - businesses that serve the City and its visitors, that generate moderate levels of car and pedestrian traffic but which do not provide extensive pollution, noise, light, or other negative impacts on the immediate area (i.e. Dry cleaners & coin-operated laundry facilities; car washes; indoor movie and stage theaters; convenience storage facilities; libraries; day care centers; etc.) and the following specific entertainment facilities: amusement centers, recreational centers, miniature golf, and tennis courts.

Temporary Commercial Parking Facility -- A temporary commercial parking facility that is operated as a business enterprise by charging a fee for parking and as permitted by City of South Padre Island Ordinance 10-23 (Sec.13-22.3 City of South Padre Island Code of Ordinances).

(3) Special Exceptions:

- a. Impound Lot, subject to compliance with the requirements of subsection 20-8(B)(4) of this Chapter (Ord. 02-06; 6-19-02);
- b. Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides "Personal Services", or within a "Medical Facility", as such terms are defined in subsection 20-8 (B)(2).

c. Public Service Facility (Ord 96-05; 10-2-96)

- (4) No impound lot shall be approved nor continue to operate as a Special Exception unless, in addition to all other applicable requirements, or conditions as required by the Board of Adjustments and Appeals, such facility: 1) is enclosed by a solid wood (excluding plywood or scrap wood), masonry, block, or manufactured vinyl fence not less than seven (7') feet in height, which may not be located within the front yard setback area, and in no instance shall barbed wire or the like be used; 2) is paved to City standards for required parking; 3) prohibits the storage therein of any vehicle for more than thirty (30) consecutive days; 4) prohibits the performance therein of any mechanical work on stored vehicles; 5) is not located within 100 ft. of Padre Blvd.; 6) is not located within fifty (50') feet of Laguna Boulevard or the "A", "B" , or "E" Zoning Districts; 7) shall provide a minimum of two (2) off-street customer parking spaces or such greater number as may be required by this code; and 8) shall be accessed by a paved access entrance no greater than eighteen ft. (18') in width.

- (5) Specific Use Permits: Substance Abuse Treatment Facilities may be granted Specific Use Permits in accordance with Section 20-24 Specific Use Permits.

- (C) Single family dwellings: If a single family dwelling is erected in the "C" District such structure shall conform to all minimum requirements of a single family dwelling in "A" District, unless the single family dwelling has been converted from previously built structure which has been used commercially, in which case the structure will not need to be modified to meet "A" District setback requirements.
- (D) Mixed Use Structure: If a residence is maintained in a structure part of which is also used for business purposes in the "C" District, such structure shall at a minimum meet the minimum front, side or rear yard setback requirements of the "C" District .
- (E) Height regulations: No building shall exceed six (6) standard stories in height, unless the setback from all street lines is one (1) foot for each two (2) feet of its height above such six (6) standard story limit. In no case shall the height of the building exceed the total of the street right-of-way width it faces, plus the depth of the front yard.
- (F) Area regulations:

- (1) Front yard: For off-street parking there shall be a front yard having a minimum depth of twenty-five (25) feet.
 - (a) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (b) Minimum front yard shall be increased one (1) foot for each two (2) feet in height if building exceeds six (6) standard stories.
- (2) Side yards: No side yard shall be required for a business use, except on a corner lot. In all cases where the side yard is adjacent to a street, the side yard shall be not less than ten (10) feet in depth. Any building exceeding three (3) standard stories shall have a side yard of four (4) feet for each additional story.
- (3) Rear yard: No structure of any classification shall be erected any closer than ten (10) feet of the rear lot line. The minimum rear yard shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.
- (4) Size of structure: The minimum size of structure shall be six hundred (600) square feet.
- (5) Amusement centers:
 - (a) No amusement center shall have any machine which projects photographic or film imagery.
 - (b) No amusement center, as that term is herein defined, shall serve alcoholic beverages of any nature, nor shall alcoholic beverages be consumed upon the premises.
 - (c) All amusement centers shall be required to locate their machines at least eighteen inches (18") apart and provide proper and adequate passageways, so that the public may pass behind the person using said machines without interfering with the person playing or utilizing said machine.
 - (d) Any business that has more than three (3) machines which require the deposit of money to be activated for an individual's entertainment, is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an amusement center, as herein defined, and subject to all the rules and regulations of the City. (Ord. No. 2E, 7-21-76)

Sec. 20- 8.1 Appendix "Z" Padre Boulevard and Entertainment District Code.

- (a) Authority – This Padre Boulevard and Entertainment District Code (hereinafter, "PBED Code") is enacted as one of the instruments for implementing the public purposes and objectives of the adopted City of South Padre Island 2008 Comprehensive Plan and the Padre Boulevard and Entertainment District Plan. This code is declared to be consistent with the 2008 Comprehensive Plan, and except as noted herein, supplants the application of all provisions of the City of South Padre Island City Code of Ordinances as it applies to land with the boundaries of the Padre Boulevard Corridor and Entertainment District, (hereinafter, "the corridor") prior to the effective date of this PBED Code.
- (b) Purpose & Intent – The purpose of the PBED Code is to support economic development and reinvestment along this commercial corridor and within this dedicated entertainment

district. Along Padre Boulevard, the PEDC implements specific development nodes with a pedestrian-oriented mix of uses with convenient access between area neighborhoods, beachfront, housing and neighborhood retail services. The intent is to revitalize Padre Boulevard to be an attractive, vibrant commercial corridor in the community, and to develop the Entertainment District into a walkable, mixed use regional destination. Therefore, the goals of the PBED Code are to promote and provide a more functional and attractive community through the use of recognized principals of urban design and allow property owners flexibility in land use, while prescribing a higher level of detail in building design and form.

Sections from 20-8.2 to 20-8.9 (Ordinance No. 11-15 was rescinded by Ordinance No. 15-08)

Sec. 20-8.10. Northern Resort District "NRD" Character Zone

Intent: The Northern Resort District "NRD" Character Zone building form and development standards are intended to provide for more flexible, market-based development vision that balances pedestrian orientation with auto oriented development. Development standards in this district are intended to focus on establishing specific criteria under which developers could propose alternative and unique standards to implement a more market-responsive project, which contributes to and enhances the general seaside resort character of the district.

Generally, this district may accommodate a wide range of commercial (retail, entertainment, restaurant and office), lodging, and residential uses. Given the availability of undeveloped land along this section, there is more flexibility within this Character Zone for applicants to propose alternative development options.

The code governing the development of projects within this zone is incorporated herein as Appendix "Z" Padre Boulevard and Entertainment District Code, heretofore adopted and hereby amended to add section 6.8 to Article VI. (A true and correct copy is hereby attached as Exhibit "A," entitled Northern Resort District.)

Sec.20-9 District "D" - Resort area district.

- (A) Area, width and depth of lots, sanitation and temporary building provisions are the same as District "A". Front yard, rear yard, height and size of structure requirements are the same as District "C". Side yard requirements are the same as District "B".
- (B) Use regulations: In a "D" District, no land shall be used and no building shall be used and no building shall be erected or converted for any other use than:
 - (1) Any use permitted in "C" District (business).
 - (2) Weekend cottages, yacht club, boat docks, marine repairs, trailer parks (travel trailers), indoor skating rinks, miniature golf, bowling alleys, retail bait stands, second-hand stores, beer taverns and dance halls, and Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides "Personal Services", or within a "Medical Facility", as such terms are defined in subsection 20-8 (B)(2).

- (3) Special Exceptions:
 - a. Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides "Personal Services", or within a "Medical Facility", as such terms are defined in subsection 20-8 (B)(2).
 - b. Public Service Facility (Ord 96-05; 10-2-96)
- (C) If a single family or multi-family dwelling is erected in "D" District, such structure shall conform to all minimum requirements of the "B" District.
- (D) If a residence is maintained in a structure that is also used for business or resort in "D" District, such structure shall conform to all minimum requirements of the "B" District.
- (E) Area regulations:
 - (1) Side yards adjacent to a street shall be not less than ten (10) feet.
 - (2) Rear yards: Same as District "C" except decks or balconies may extend within ten (10) feet of the rear lot line as in District "B".
- (3) Travel Trailer parks: A recreational vehicles building permit is required prior to construction. The park area must encompass a minimum of two (2) acres, with density not to exceed fifteen (15) units per acre.
 - (a) Private streets: Private streets shall be provided and shall extend continuously from public street right-of-way. Minimum pavement widths shall be eighteen (18) feet and streets shall have a base of at least six (6) inches of caliche and two (2) inches of asphalt.
 - (b) Lots: Lots must have sanitary sewer, water and electric power and must be 75 feet long and 35 feet wide or 2,625 square feet. The front yard setback shall be 10 feet.
 - (c) Parking: Parking space must be a minimum of one off-street space per lot, each space shall have a permanent all-weather surface, and shall have dimensions of not less than 8'6" x 18'0", or 300 square feet.
 - (d) Accessory uses: All accessory uses shall be located a minimum of ten (10) feet from the lot line.
 - (e) Lighting: The private streets, parking lots, walks and service areas shall be kept properly and adequately lighted at all times so that the park area will be safe for occupants and visitors. All entrances and exits shall be lighted and all lighting shall be at the expense of the park owner.

Sec.20-9.1 "D-1" RESORT AREA DISTRICT

(A) Purpose and Intent:

This district is composed of those areas of the City whose principal use is and ought to be a combination of residential and business uses in a resort setting. This district has been located within the City to permit the development of these residential and business activities, to protect adjacent areas against the encroachment of incompatible uses, and to lessen congestion on the public streets. To these ends, certain uses which would function more effectively in other

districts and would interfere with the operation of these residential and business activities, and the purposes of this district, have been excluded.

(B) Use Regulations:

- (1) Permitted Uses: The following uses shall be permitted as-of-right within the "D-1" District:

Apartments
Condominiums
Hotels/Motels
Transportation/Communication
 radio broadcasting
 television broadcasting
 travel arrangement services
 transportation ticket services
Retail Trade

antiques	gifts, novelties, and souvenirs
apparel and accessories	ice cream and frozen deserts
arts and crafts	jewelry
bicycles -- sales and rental	liquor store
books	meat, fish, and seafood
cameras and photographic supplies	music supplies
candy, nut, and confectionery	newspapers and magazines
china, glassware, and metalware	pharmacy/drug store
cigars and cigarettes	radios and televisions
convenience food stores	restaurant, cafe, or delicatessen
custom tailoring	specialty food shops/bakeries
florists	sporting goods -- sales and rental
fruit and vegetables	stationery
furs and furriers	taverns, bars, nightclubs, saloons, or dance
gasoline service stations	hall

Finance, Insurance, and Real Estate Services

bank	real estate operators and lessors
commercial credit institutions	real estate subdividing and developing
commodity contracts brokers and dealers	services
services	savings and loan association
credit unions	security brokers, dealers, and flotation
holding and investment services	services
insurance agents, brokers, and services	security and commodity exchanges
insurance carriers	security and commodity allied services
real estate agents, brokers, and management	title abstracting services
services	

Personal Services

apparel repair and alterations	diaper services
artist's studio	dry cleaning pick-up station
beauty and barber shops	laundry -- coin operated, self-service
catering services	linen supply

photographic services

shoe repair and shoe shining services

Business Services

adjustment and collection services
advertising services
business management consulting services
consumer and mercantile credit reporting
services
detective and protective services
duplicating, mailing, and stenographic
services

employment services
motion picture distribution services
news syndicate services
photofinishing services
printing and publishing services
research, development, and testing services

Repair Services

automobile wash services, bicycle repair
watch, clock, and jewelry repair

Professional Services

accounting, auditing, and bookkeeping
services
chiropractor services
Dental Clinics
General and Special Hospitals
Primary Care Physician's Offices

Urgent Care Centers
educational and scientific research services
engineering and architectural services
legal services
licensed therapeutic massage

Governmental Services

governmental functions, facilities, and buildings
postal services

Educational Services

art and music school
dancing school

day care centers
nursery schools

Miscellaneous Services

civic, social, and fraternal organizations
professional membership organizations

Cultural, Entertainment, and Recreational

auditorium
art galleries
banquet hall
billiard hall
bingo parlor
boat ramp
botanical gardens and arboretums
bowling center
dinner theater
exhibition hall
gymnasium and health club

historic and monument sites
libraries
miniature golf
museums
planetaria
public parks
reception hall
recreational center
skating rink
theater -- stage play -- indoor
theater -- motion picture -- indoor

- (2) Special Exceptions: Within the "D-1" District, the following uses may be permitted as special exceptions upon review and approval by the Board of Adjustment. Any property located within the "D-1" District may be approved for any of the following listed uses, provided the Board of Adjustment shall first make a positive finding that any proposed use or change in use shall have no negative impact upon surrounding properties or upon the character of the District, as required by Section 20-16, to wit;

Transportation/Communications

helicopter landing/take-off pads

Governmental Services

public service facility

Business Services

outdoor storage and long-term vehicle parking areas

Cultural, Entertainment, and Recreational

go-cart track, golf driving range

theater -- stage play -- outdoor

theater -- motion picture -- outdoor

- (3) Accessory Uses: Within the "D-1" District, any use that is clearly incidental and subordinate to the principal use of the property, is definitely an integral part of the services of such principal use, and is intended for the convenience of the customers of the principal use of the property may be permitted as an accessory use (unless otherwise listed as a special exception). Such accessory uses shall meet the following requirements:

- (a) The sum of all accessory uses shall not constitute a total area larger than twenty (20) percent of the total building area of the principal use.
- (b) No accessory use shall be constructed or used until the principal use is established on the same lot.
- (c) No accessory use shall continue after the termination of the principal use upon the lot.

The City Manager, or designee, shall determine if a proposed use qualifies as an accessory use under these regulations. In cases of doubt, or on specific questions raised, as to whether a proposed use qualifies as an accessory use under the requirements of this Ordinance, the matter may be appealed to the Board of Adjustment, in accordance with Section 20-16, and shall be decided by the Board as a question of fact.

- (C) Area Regulations: The following regulations shall apply in all "D-1" Districts:

- (1) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) square feet.
- (2) Minimum Lot Width and Depth: The minimum lot width shall be fifty (50) feet. The minimum lot depth shall be one hundred (100) feet.

- (3) Maximum Lot Coverage: The maximum lot coverage shall be as dictated by the other area and performance standards, such as yard setbacks, landscaping, and parking.
- (4) Minimum Structure Size: The minimum size of a structure shall be six hundred (600) square feet.
- (5) Minimum Height: No building or structure shall exceed six (6) standard stories in height, unless the setback from all street lines is one (1) foot for each two (2) feet of its height above such six (6) standard story limit. In no case shall the height of any building or structure exceed the total of the street right-of-way width it faces, plus the depth of the front yard.
- (6) Yard and Setback Requirements:
 - (a) Front Yard: There shall be a front yard having a minimum depth of twenty-five (25) feet.
 - (1) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (2) The minimum front yard shall be increased one (1) foot for each two (2) feet in height if a building exceeds six (6) standard stories.
 - (b) Side Yards: A minimum side yard of five (5) feet shall be provided on each side of the structure, **except** under the following circumstances:
 - (1) Where commercial buildings are constructed at the side property line with fire walls complying with the requirements of the Building Code for zero property line clearance, no sideyard will be required.
 - (2) Where a side line of a lot in this district abuts the side line of a lot in a residential district (Districts "A," "B," or "E"), a side yard shall be provided the same as required in the residential district it abuts.
 - (3) Where the side yard is adjacent to a street, the side yard shall be not less than ten (10) feet.
 - (4) Any building exceeding three (3) standard stories shall have a sideyard of four (4) feet for each additional story.
 - (c) Rear Yard: A minimum rear yard of ten (10) feet shall be provided. The minimum rear yard shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.
- (7) Required Screening Device: Where off-street parking and/or loading areas within the "D-1" District are located adjacent to residentially-zoned property within Districts "A," "B," and/or "E," or lies directly across the street from such residentially-zoned property, there shall be located along all common property lines a screening device consisting of a continuous solid wooden fence, masonry wall, or landscaped earthen berm with a minimum height of six (6) feet, except that the height of such fence, wall, or earthen berm shall not exceed thirty (30) inches within any front yard setback area adjacent to a public or private street, when placed perpendicular to that street. In the instance of a masonry wall or wooden fence, the finished side of the wall or fence shall be to the adjacent property.

- (8) Exterior Lighting: The standards required for all exterior lighting in the "D-1" District shall be the same as those outlined in Section 20-8.1(C)(9).
- (9) Outside Storage: The standards required for all outside storage of materials, equipment, and the storage of fleet vehicles or the long-term storage vehicles for others shall be the same as those outlined in Section 20-8.1(C)(10).

Sec. 20-9.2 "D-2" Park District

- (A) Purpose and intent: This "'D-2" Park District is composed of property owned by a governmental entity.
- (B) Use Regulations: Any use that the governmental entity may legally make of the property and any use permitted by the governmental entity to third parties pursuant to a concession/lease agreement.
- (C) Height Regulations: Shall be that as provided by the concession/lease agreement.
- (D) Area Regulations: Shall be that as provided by the concession/lease agreement except that no structure may be built within twenty-five (25) feet of any other zoning district within the City.
- (E) Parking: Shall be that as provided by the concession/lease agreement.
- (F) Signage: Shall be that as provided by the concession/lease agreement.
- (G) Any third party will be required to file a copy of the concession/lease agreement with the City of South Padre Island, Public Works Department, which shall control that party's use of the property.

Sec. 20-10 District "E" - Low Density Residential--Single-Family and Townhouse Dwelling District.

- (A) Purpose--This district is composed of those areas of the City whose principal use is and ought to be single-family dwellings and single-family attached Townhouse dwellings. This district is characterized by dwelling units with separate and distinct owners who own and reside within the dwelling units or rent these units. This district is intended to create and preserve areas of essentially single-family residential character, and promote a single-family residential neighborhood environment.
- (B) Use Regulations:
 - (1) Dwellings, one family.
 - (2) Townhouses.
 - (3) Accessory buildings, including private garage and bona fide servants' quarters, not for rent. When the accessory building is directly attached to the main building it shall be considered an integral part of the main building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. The floor area of all accessory buildings on the lot shall not exceed fifty percent (50%) of the gross floor area of the principal structure.
 - (4) Temporary buildings to be used for construction purposes only, and which shall be removed upon the completion or abandonment of the construction work.
 - (5) Field offices for the sale of real estate for the specified development which shall be used for temporary offices only, to be removed after sales are closed,

and to be used on the site only. A building permit is required for the installation of a field office and shall be valid for a one (1) year period, renewable upon expiration if sales are still active.

- (6) Special Exceptions: Public Service Facility; Residential accessory uses in a vacant lot that is contiguous with a residential single family lot having a principal building under common ownership
- (C) Height Regulations: No building shall exceed forty-five (45) feet, when measured vertically from the center line of the street to the highest point of the building.
- (D) Area Regulations:
 - (1) Front yards:
 - (a) There shall be a frontyard having a depth of twenty-five (25) feet.
 - (b) Where lots have double frontage, running through from one street to another, the required front yard shall be provided upon both streets.
 - (c) Corner lots shall provide the minimum frontyard setback along both streets, with the exception of corner lots on Laguna and Gulf Boulevards. The frontyard setback for both the Laguna and Gulf Boulevard frontages or corner lots shall be ten (10) feet.
 - (2) Side yards:
 - (a) There shall be a side yard on each side of the lot having a clear width of not less than five (5) feet, including projections of the side of the building such as eaves, cornices, porches, stairways, carports, etc.
 - (b) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than ten (10) feet.
 - (c) Where canals, bay front, beach front, and/or yacht basins occur at the side of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
 - (3) Rear yards: Same as District "A" (minimum of 20'), except:
 - (a) The structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the twenty (20) feet rear yard setback within ten (10) feet of the rear property line as provided for herein, shall be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance.
 - (b) Where canals, bay front, beach front, and/or yacht basins occur at the rear of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
 - (4) Area of lot:

- (a) For a single-family dwellings the minimum area of a lot shall be 5,000 square feet, or as recorded in the County Courthouse as of November 7, 1979.
 - (b) For attached single-family Townhouse dwellings, the minimum area of a lot shall be 2,500 square feet per dwelling unit.
- (5) Width of lot:
 - (a) For a single-family dwelling, the minimum width of a lot shall be fifty (50) feet.
 - (b) For attached single-family Townhouse dwellings, the minimum width of a lot shall be twenty-five (25) feet.
- (6) Depth of lot: The minimum depth of a lot shall be one hundred (100) feet.
- (7) Sanitation: There shall be no sewage disposal without water carriage. Chemical toilets may be erected on a temporary basis during construction only.
- (8) Special Area Requirements: In no instance shall more than four (4) single-family attached Townhouses be connected as a single unit.
- (9) Driveways: All driveways shall be limited to a maximum of twenty-six (26) lineal feet in width. No driveway shall extend beyond the required five (5) foot sideyard setback on either side of the residence. For Townhouse uses, an additional minimum open space area of one (1') foot on each Townhouse lot shall be required between the driveways of each adjoining Townhouse along the length of the common, interior property line for the length of the driveway.
- (10) (Reserved)
- (11) Any condominium building which existed on August 3, 1994 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.
- (12) Any structure which exists on August 3, 1994 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.
- (13) Any land use that exists on August 3, 1994 that does not conform to the standards of the District "E" shall be deemed a conforming use and may continue the use as it was on August 3, 1994.

Sec.20-11 Special area regulations.

- (A) Front, side and rear yard fences, walls, etc.
 - (1) Any fence, wall, or other structure higher than thirty inches (30") above walk grade and located within any front yard setback is hereby declared to be an obstruction; except that a fence, wall, or other structure higher than 30" may be erected within any front yard setback provided that it is not higher than six (6') feet in height as measured from walk grade, does not obstruct the right of way, and that the portion located above 30" has a 2 open : 1 obstructed ratio that can be seen through.
 - (2) On any lot on which a side or rear yard is required by this Chapter, no wall or fence shall be erected that exceeds seven (7) feet above grade. The facing and backing of solid or hollow masonry walls shall have the grouting "finished" in

accordance with good construction practice. Surface improvements such as the application of stucco, surewall, or paint, etc. shall appear on both sides and top of the masonry wall.

- (B) Drilling prohibited within 1,000 feet of structure. It shall be unlawful for any person, corporation or other legal entity to conduct any type of drilling operations within the City for the exploration and/or recovery of oil or gas or other minerals within one thousand (1,000) feet of any type or kind of building or structure that is at any time inhabited or used by people.
- (C) Recreational Vehicles/Mobile Equipment
 - (1) Recreational Vehicles - Definitions
 - (a) Motor Homes - A qualifying vehicle is a self-propelled completely self-contained vehicle which contains some or all of the conveniences of a home including cooking, sleeping, and/or permanent sanitary facilities, and in which the driver's seat is accessible in a walking position from the living quarters, and designed for temporary recreation, camping, or travel use.
 - (b) Travel Trailers, Camping Trailers, and Fifth Wheel Trailers - Vehicles designed as living quarters for temporary recreation, camping, or travel use, which do not have their own motor power, but are designed to be drawn by another vehicle.
 - (c) Truck Camper - Any unit primarily designed as temporary living quarters for recreation, camping, or travel use, which is capable of being occupied and designed to be temporarily attached to the bed or frame of a truck.
 - (d) Mobile or Manufactured Home - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code, and so designed and constructed as to permit its transport on wheels, temporarily or permanently attached to its own chassis, from the place of its manufacture to the location of which it is intended to be occupied, connected to utilities, for year-round occupancy, as a permanent dwelling unit. A mobile or manufactured home shall not be considered a recreational vehicle.
 - (2) Regulations for Recreational Vehicles within the City of South Padre Island, Texas.
 - (a) Recreational Vehicles are prohibited from being used as rental properties or as permanent living quarters.
 - (b) Recreational Vehicles, whether occupied or unoccupied, shall not be parked for more than ten (10) hours or overnight along any street right-of-way.
 - (c) Recreational Vehicles, whether occupied or unoccupied, shall not be parked on any unimproved lot or upon any improved lot where the permanent residence is unoccupied. The only exception to this provision shall be after a major storm or other similar community-wide event in which a homeowner is using the recreational vehicle as temporary housing (upwards of 120 days – with a one-time 60 day permit extension

- available) while awaiting the completion of repairs to the residential property damaged in the event. As soon as electricity becomes available, it is expected that the recreational vehicle will be connected with the electricity of the residential property and not to generators.
- (d) Recreational Vehicles, shall be kept in good repair and in working condition, with a current license plate, unless stored in a parking garage or other permitted parking area.
 - (e) The storage of recreational vehicles upon non-commercial property is permitted, provided all of the following conditions are met:
 - (i) The subject property shall be improved residential property with a permanent dwelling unit, not an unimproved, vacant property.
 - (ii) The stored Recreational Vehicle shall not, at any time, be used as living quarters upon the subject property.
 - (iii) Such vehicles shall be limited to those owned by the occupant of the permanent dwelling.
 - (iv) Recreational Vehicles shall not be stored where such parking or storing constitutes a vehicular traffic hazard or a threat to public health or safety.
 - (v) The stored Recreational Vehicle shall be maintained with monthly cleanup of weeds, tall grass, trash.
 - (vi) The Recreational Vehicle shall not be stored within the frontyard and sideyard setbacks.
 - (vii) Overnight parking of a recreational vehicle, belonging to the resident of the permanent dwelling unit, upon the driveway of the permanent dwelling unit, in preparation for a trip or the return from a trip, for a period not to exceed seven (7) days, shall not be considered "storage," and shall be permitted.
 - (f) Commercial storage facilities for Recreational Vehicles shall:
 - (i) Be surfaced with a permanent, all-weather surfacing.
 - (ii) Be maintained with a monthly cleanup of weeds, tall grass and trash.
 - (iii) Be enclosed with a minimum of six (6) feet tall solid wood fence or masonry wall.
 - (iv) The overnight parking of a recreational vehicle upon private property and within the designated off-street parking area of a hotel or motel, by a guest of that hotel or motel, for the duration of the guest's stay, shall not be considered "storage," and shall be permitted, provided that the recreational vehicle is simply parked, and is not occupied, or otherwise used for residential purposes.
 - (g) Overnight visitor parking of a Recreational Vehicle on private property may be permitted under the following circumstances:
 - (i) The Recreational Vehicle must be parked upon an improved residential property.
 - (ii) The occupant of the permanent dwelling unit upon the property must be in residence at the time of the visit.
 - (iii) The visit shall be limited to a maximum duration of not more than seven (7) consecutive days.
 - (iv) The total number of visits to any individual property shall not exceed a maximum of six (6) visits per calendar year.

- (v) A permit authorizing the visit has been issued by the City of South Padre Island. The permit application shall be filed by the occupant of the permanent dwelling unit, and shall contain the specific duration of the stay and a copy of the vehicle registration reflecting the ownership of the subject Recreational Vehicle. The issued permit shall be placed in a window of the visiting Recreational Vehicle such that it is visible at all times from the adjacent street.
 - (3) Mobile Equipment - Definition
 - (a) Livestock trailers, tractor trailers, dump trucks, trucks licensed for over one (1) ton, which are used for commercial or industrial purposes, and such other vehicles not defined as recreational vehicles.
 - (4) Regulations for Mobile Equipment within the City of South Padre Island.
 - (a) No one may reside in, or occupy overnight, any Mobile Equipment.
 - (b) No Mobile Equipment may be parked along any street right-of-way or front yard setback for more than ten (10) consecutive hours, or overnight. [Ord 09-04]
 - (5) Commercial sales activities shall be prohibited from Recreational Vehicles and/or Mobile Equipment. (added by Ord 02-01)
- (D) Temporary Structures: Notwithstanding the requirements of the City Code of Ordinances which regulates structures and their use on a year-round basis, the City Manager, or designee, may grant permits for temporary structures to be located in any zoning district except as outlined in paragraphs 2 & 3 below. To qualify for a permit, the proposed temporary structure must comply with the following requirements:
- (1) Temporary structure permits may be issued to the owner or tenant of the permanent business structure located upon the same property where the temporary structure is proposed. No permits will be issued to second parties who will operate a business activity from the temporary structure independent of that conducted in the permanent structure.
 - (2) Temporary structures are prohibited within one-hundred and fifty (150') feet of Padre Boulevard.
 - (3) Commercial sales activities of any kind are not allowed in temporary structures regardless of their location.
 - (4) Temporary structures shall not be deemed to include motorized vehicles such as, automobiles, trucks, buses, or recreational vehicles.
 - (5) Depending upon the nature of the business to be conducted from the temporary structure, all other relevant City codes and ordinances shall be met; i.e., the Zoning Ordinance, the Sign Ordinance, Health Codes.
 - (6) Generally, all unattended temporary structures shall be secured against high wind and intrusion. However, because the community can be subject to high winds and severe weather on a random basis, the City reserves the right to suspend all temporary structure permits at any time, and require the immediate removal of all such temporary structures.
 - (7) The permit application materials for a temporary structure shall include:
 - (a) A statement of the proposed use of the temporary structure.
 - (b) A statement of the time period during which the temporary structure will be located upon the site. (Maximum of thirty (30) days in a calendar year, starting January 1 – December 31.)

- (c) The name, address, telephone number, fax number (if applicable), and driver's license number or employer identification number of the applicant.
- (d) A site plan reflecting the location of the proposed temporary structure upon the property, its distance from the permanent structure, the areas of ingress and egress from the permanent structure, the gross square footage of the permanent structure, location of any vehicle access points to the property, and the location and number of any parking spaces upon the property.
- (e) Payment of a One Hundred Dollar (\$100.00) application fee.
- (8) Temporary structures shall not block or otherwise obstruct a fire exit or other form of safety ingress/egress..
- (9) City Exemption: Notwithstanding the requirements of this City Code of Ordinances relating to open display and the use of temporary structures, the City of South Padre Island shall be exempt from all provisions herein, and is expressly permitted to authorize the use of public property and the public right-of-way for the purposes of outdoor display and temporary structures for the purpose of publicly sponsored events, as well as recognized events sponsored by other agencies authorized by the City.(amended by Ord 02-01, 12-04)

Sec. 20-11.1 Outdoor displays--Regulations and Requirements. [Ord No. 01-03]

It shall be unlawful for any person to set up outdoor display facilities for merchandise upon any property within the City of South Padre Island, unless the same owner, operator or concessionaire is also the owner, lessee, or tenant of a permanent structure located on the same property and in full compliance with the Zoning and Building Codes of the City. Any person desiring to set up outdoor display facilities shall comply with the following:

- (A) No displays of merchandise on top or side of buildings or in any manner hanging on or from the building with the exception of windsocks and spinners;
- (B) No storage of merchandise or inventory in vehicle(s), trailers or outside of the building;
- (C) All outdoor display facilities or fixtures must be secured and/or anchored so that they will not become detached in winds up to 75 miles per hour and must be removed daily at the close of business and brought into the place of business or placed in a fenced-in area on the property that is secure and windproof;
- (D) All outdoor display(s) shall only be permitted during the hours the business is open and staffed of each day;
- (E) All outdoor display facilities, except for windsocks and spinners, must be located within an area not to exceed Five (5) feet from the front wall of the main structure. The total maximum area may not exceed one hundred (100) square feet and may include two (2) displays, but no single display area can exceed fifty (50) square feet;
- (F) Windsocks and spinners will be allowed to display outside up to a maximum of Fifteen (15) items and these must be attached to the front structure of the business;
- (G) No outdoor display may eliminate any existing parking, block sidewalks in any way, and may not cause patrons to park or encroach on the City's right of way;

- (H) Up to a maximum of six (6) periods (dates) per calendar year as designated by the City Manager merchants will be allowed to display merchandise normally sold by the merchant. No tents will be allowed in any outdoor display facility;
- (I) Kite stores may continue to display pursuant to (F) above which has no limitation for time period except for (D) above.
- (J) Beach floats only can be displayed outside for the summer months beginning the weekend before Memorial Day and ending the weekend after Labor Day as specified in (E) above.

Sec.20-12 Certain non-conforming uses.

- (A) Uses existing prior to passage of ordinance deemed conforming or non-conforming. Any lawful use of property existing prior to zoning or re-zoning of said property that does not conform to the regulations of Chapter 20 of the Code of Ordinances shall be deemed a non-conforming use; except that any duplex or apartment use existing prior to November 9, 1979 shall be thereafter deemed a conforming use.
- (B) Future non-conforming uses prohibited. The lawful use of land existing prior to zoning or re-zoning of said property, although such does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued for six (6) months, any future use of said premises shall be in conformity with the provisions of this ordinance. If a building occupied by a non-conforming use is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform with the provisions of this ordinance.
- (C) Reverter of non-conforming use to lower classification prohibited. The lawful use of a building existing prior to zoning or re-zoning of said property may be continued, although such does not conform to the provisions hereof, and such use may be extended throughout the building, provided no structural alteration, except those required by law or ordinance is made therein. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification; provided, however, that in the event a non-conforming use of a building is once changed to a non-conforming use of a higher or more restricted classification, it shall not later revert to the former or less restricted classification.
- (D) Continuance of non-conforming use subject to regulations. The right of any non-conforming use to continue shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustments, be reasonably required for the protection of adjacent property.
- (E) Restoration of damaged building permitted. Nothing in this order shall be taken to prevent restoration of a building destroyed to the extent of not more than fifty-one percent (51%) of its reasonable value by fire, explosion or other casualty or act of God or public enemy, nor the continued occupancy or use of such building, or part thereof, which existed at the time of such partial destruction.
- (F) Improvements and additions to existing non-conforming uses. The Board of Adjustment may grant the right to improve or make additions to existing non-conforming uses, after a public hearing, and subject to the following limitations and requirements, to wit:
 - (1) Additions or improvements shall only be considered for the same non-conforming use.

- (2) Any additions or improvements shall not increase the original non - conforming use (being the size of the structure(s) at the time it became a non-conforming use) by more than 100%.
- (3) All property owners within 200 feet of any application to expand a non-conforming use shall be notified of the hearing before the Board of Adjustment at least 15 days prior to the date of the hearing.
- (4) Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in the City's official newspaper.
- (5) The Applicant hereunder shall be responsible for all costs incurred for the hearing and permit process along with a \$100 fee.
- (6) The Applicant must demonstrate to the Board of Adjustment that the proposed addition or improvements will have no or minimal negative impact upon surrounding properties or upon the character of the neighborhood or the application will be denied.

Sec.20-13 Setback area -- Special regulations and uses.

- (A) Setbacks--Area Not To Be Used. No vertical structures or manufacture of any kind, temporary or permanent, or any types of goods, wares or merchandise of any kind, nor other property of any kind, will be placed within the setback requirements required by this code, except for fences, signs, trash pads, walks, linen cabinets as detailed in Section 20-13(E) below and retaining walls and the sideyard setback may have placed in it swimming pool equipment, trash pads, walks, shower pads and air conditioning equipment not to exceed first floor level. The rear yard setback may have placed in it a swimming pool and pool accessories that are limited to a hot tub, a spa, a pool slide, pool railings, water features, water pumps, swimming pool equipment and shower pads, provided those accessories are to be used solely by occupants of the dwelling(s) and their guests and shall not exceed 6.5 feet in height when located within 10 feet of a property line. The setback area shall be that portion of the property between a public right-of-way or lot line and the permissible building line for that piece of property. [Ord 98-03; Jan 1998]
- (B) Determining Setback Requirements. When determining the setback requirements for this Chapter, the setback lines for a structure will vary for different portions of that structure as it increases in height, thereby allowing stair stepping in determining the setback requirements. Each time a building reaches a height that requires an additional setback, only that portion of the building at that height must meet the additional setback, and the lower portions must only comply with the setback as applied to it. ~~(C)~~ [Repealed Ord 09-12, Nov 2009]
- (D) Beach Lots--Rear Yard. All buildings located East of Gulf Blvd. are not required to maintain a rear yard regardless of any provision in this Chapter to the contrary and may build the rear of their structure to the building line as established by the Attorney General of the State of Texas.
- (E) Linen Cabinets: Linen cabinets may be placed in the side and rear-yard setback areas with an approved Building Permit for such installation, under the following conditions:
 - a. Only within the "C", "C-2", "D" and "D-1" zoning districts.
 - b. A minimum of a five (5') foot separation must exist between the linen cabinet and any structure, excluding fences.
 - c. The receptacle must be anchored at or above the six (6') foot elevation and must be built and anchored to meet FEMA and windstorm standards for permanent structures.

Sec.20-14 Parking Regulations.

(A) General Requirements:

- (1) No parking garage or structure shall be erected in a required front or side yard. (Ord. No. 77A, 7-1-81)
- (2) The requirement for the provision of eight (8) stacking spaces for any use that will provide a drive through sales facet to its operation to insure that traffic will not back-up onto the public right-of-way.
- (3) Parking lot shall be landscaped in accordance with Sec.20-21 Required Landscaping.
- (4) Compact Parking – 10 % of the required parking may be compact parking. Compact Parking is defined as parking spaces that are laid out as eight (8) feet by sixteen (16) feet.
- (5) Commercial parking lots are prohibited within Districts “A”, “B-2” and “E”.
- (6) Required parking for a non-residential use may be located off-site under the following circumstances:
 - (a) No more than Fifty (50) Percent of the required parking for the use may be located off-site.
 - (b) The off-site parking location must be ① a contiguous property on the same side of the street as the property upon which the principal use to be served by the off-site parking is located; ② a property directly across the street from the principal use, but no farther than Ninety Feet (90') from the nearest property line of the principal use; or ③ a remote property when valet parking is utilized.
 - (c) If the off-site parking lot is located on another street, within Ninety Feet (90'), from the principal use, and the principal use does not abut and have pedestrian access to the proposed off-site parking lot, pedestrian access must be created between the principal use and the off-site parking lot, by means of a private pedestrian easement agreement granted to the Property Owners Association and/or property owner of the principal use. The easement shall be recorded in Cameron County and filed with the City of South Padre Island. A public right-of-way shall not serve as the means for meeting the pedestrian access requirements to install an off-site parking lot established in this section.
 - (d) A written agreement, prepared by the applicant and drawn to the satisfaction of the City Attorney, shall be executed by all parties concerned and filed on record in the Office of the Cameron County Recorder as a covenant upon the property upon which the principal use is located, requiring the owners, heirs, or assigns to maintain the required number of off-street parking spaces.
 - (e) As a conditional use permit application, said off-site valet parking plan shall be reviewed and recommended by City staff and reviewed by the Planning and Zoning Commission on an individual plan basis and said recommendations will be sent to the City Council for final approval.

(B) Number of Parking Required:

- (1) Amusement uses:
 - (a) Amusement parks and/or uses (especially, outdoor entertainment and recreation facilities) shall be determined by the Planning and Zoning Commission on an individual plan review basis.

- (b) Amusement (centers, especially indoor facilities) uses shall provide one (1) parking space for each 250 square feet of gross floor area.
- (2) Bowling alleys shall provide off-street parking space at a ratio of two (2) spaces for each alley.
- (3) Clinics shall provide off-street parking at a ratio of one (1) space for each two hundred and fifty (250) square feet of gross floor area within the structures but in no case shall less than five (5) off-street parking spaces be provided.
- (4) Dance halls, commercial amusement establishments and skating rinks shall provide off-street parking space at a ratio of one (1) space for each one hundred fifty (150) square feet of gross floor area.
- (5) Hospitals shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) beds, but in no case shall less than five (5) off-street parking spaces be provided.
- (6) Hotels and motels shall provide one (1) off-street parking space for each guest bedroom in the building. For hotels and motels erected after August 1, 1994, the number of parking spaces required shall be one (1) off-street parking space for each guest bedroom in the building plus Fifty Percent (50%) of the off-street parking requirements from the various accessory uses operated upon the property, such as restaurant and retail space, computed in accordance with the requirements of Chapter 20 of the Code of Ordinances (Zoning), as if they were principal uses.
- (7) Multi-family dwellings shall provide two (2) off-street parking spaces per unit; or, may provide parking at a ratio of 1.5 spaces per unit and comply with In-Lieu Parking Fee as an alternative to compliance with the parking standard established in this section. (Ord No. 11-09)
- (8) Nightclubs shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For nightclubs constructed or converted from other uses after August 1, 1994, off-street parking spaces shall be provided in a ratio of one (1) space for every One Hundred Square feet (100 sq. ft.) of gross floor area.
- (9) Mixed Use Developments:
 - (a) For the purposes of this section on parking, Mixed Use Developments must contain only: residential uses and retail, office and/or restaurant uses.
 - (b) Parking for residential units will be consistent with the residential and multifamily parking requirements currently in existence; however, each residential unit shall be required to have at least one assigned parking space.
 - (c) Retail and office space shall use a ratio of one (1) parking space for every 250 ft of gross floor area, including storage rooms and bathrooms.
 - (d) A restaurant use will be required to provide one (1) parking space for every 225 ft of gross floor area; in no case shall the restaurant floor area equal more than 40% of the total commercial floor area of the development.
 - (e) Off-Street parking for Mixed Use Developments (projects/developments that contain both residential and commercial uses within the same structure) that have uses other than those mentioned in (a) above shall be determined by the Planning and Zoning Commission on a case-by-case basis if the developers wish to propose a Shared Parking arrangement. The Commission may include conditions to these permits and should consider the mix of businesses and uses, the hours of operation, participation and use of the public transportation system, and the condition and use of pedestrian and other mobility infrastructure in the area.

- (10) Places of assembly shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) seats.
- (11) Places of Worship shall provide one (1) off-street parking space for each five (5) fixed seats in the sanctuary or auditorium; OR one space for every 100 square feet of floor area within the sanctuary/auditorium, whichever is greater.
- (12) Private clubs and lodges shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area in the lodge or club.
- (13) Restaurants and cafes shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For restaurants and cafes constructed or converted from other uses after August 1, 1994, off-street parking spaces shall be provided in a ratio of one (1) space per One Hundred square feet (100 sq. ft.) of gross floor area.
- (14) Retail stores and office buildings shall provide off-street parking space in a ratio of one (1) space for each two hundred fifty (250) square feet of gross floor area. (Ord. No. 77A, 7-1-81)
- (15) Retail, office and service buildings shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods such that no part of the truck or trailer will be in a dedicated street, alley or easement during loading or unloading or parking.
- (16) Rooming and lodging houses shall provide off-street parking space at the ratio of one (1) space for each two (2) guests for which accommodations are provided.
- (17) Schools shall provide one off-street parking space for each fifteen (15) students plus one (1) each for each teacher.
- (18) Single family and Townhouse uses shall provide off-street parking spaces on the lot to accommodate two (2) motor vehicles for each dwelling unit; no supporting member of any garage, carport or any garage structure shall be located within the required front yard. [Amended by ordinance 07-19, 10-17-2008]
- (19) Storage or warehousing units that are freestanding and separate from other uses (buildings) shall provide minimum 0.32 parking spaces per 1,000 square feet of gross floor area. (ITE Trip Generation Manual, 9th Edition)
- (20) Theaters shall provide off-street parking space in a ratio of one (1) space for each five (5) seats.

(C) Offsite Parking Design Standards

- (1) Streetscape and Perimeter Landscaping
 - (a) Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
 - (b) Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.
 - (c) For parking lot edges adjacent to streets, parks or other public open space, provide the following:
 - at least one row of shade trees, spaced evenly at intervals appropriate to the selected species, for the length of the parking lot edge; and

- screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.
 - (d) Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.
 - (e) Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.
 - (f) Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.
 - (g) Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.
 - (h) Coordinate tree planting with the location of light standards and other utilities.
- (2) Legally Conforming Non-Conforming Off-Site Parking Lots – Off- site parking lots in existence, at the time of the enactment of this section, that do not conform to the streetscape and perimeter landscaping requirements established in this section shall be considered legally conforming off- site parking lots.

(D) Valet Parking

- (1) Conditional Use Permit. The conditional use permit application shall include a parking plan and program providing the following minimum information:
- (a) The names, addresses, and telephone numbers of the applicant, the property owner, and/or the independent contractor, as applicable;
 - (b) The location, parking space layout, dimension of spaces, number of spaces, drive aisles, valet parking service stands and valet routes (This shall also include the placement of any traffic cones to be used; In determining the location, valet parking will be considered as a commercial parking);
 - (c) The proposed hours and days of operation of the valet parking service;
 - (d) A plan to minimize noise, loitering and trash within and adjacent to the off-site valet parking lot;
 - (e) The drop-off and pick-up areas must be safe from traffic hazards and be adequately posted;
 - (f) Valet parking must be off-street;
 - (g) A current title report or attorney's title opinion showing the ownership of the property: The applicant shall own properties that are related to the proposed developments including both the main development site and the off-street parking lot(s);
 - (h) A signed agreement or other documentation showing that the applicant has a legal right to park vehicles at that off-street location: If the applicant is providing more than the parking spaces that is required by the code, the ownership of the subject off-street parking is not required;
 - (i) A signed agreement or other documentation showing that a contract has been fully executed between the owner and a valet parking service;

- (j) An authorization letter from the land owner(s), if the application is filed by an applicant's representative; and
- (k) Proof of insurance.

(2) Violations

- (a) It shall be an offense to operate a valet parking service within the city on a public right-of-way for maneuvering vehicles without a conditional use permit issued by the city.
- (b) It shall be an offense if, at a time other than the hours and days of operation authorized in a conditional use permit, anyone operates a valet parking service within the city on a public right-of-way.

(3) Denial or Revocation of a Conditional Use Permit; Temporary Suspension.

- (a) The conditional use permit shall become null and void if:
 - a. The property owner, and/or the independent contractor fails to comply with the requirements of this article or other applicable law;
 - b. The property owner, and/or the independent contractor makes a false statement of material fact or omission on an application for a conditional use permit; or
 - c. The City Council determines that the operation of the valet parking service would endanger the public health, safety and/or welfare.
- (b) The City Council, the City Manager, Public Works Director, Police Chief, Fire Chief or their designated representatives may temporarily suspend the operations of a valet parking service if the public right-of-way used by the valet parking service is needed for maintenance, emergency use and/or special events.

(4) Standards for Operation of a Valet Parking Services

- (a) The applicant shall:
 - a. Allow only employees and independent contractors who hold a valid state driver's license, and who are covered by the insurance required by this article, to operate any vehicle in connection with the valet parking service;
 - b. Not obstruct a pedestrian's use of a sidewalk;
 - c. Place no more than one valet parking service stand on the public right-of-way;
 - d. Not place nor allow the placement of a sign advertising the valet parking service in the public right-of-way, except as provided in this article; and,
 - e. Not park a vehicle on the public right-of-way and shall only an off-street parking location to park a vehicle accepted for valet parking service.
- (b) Except for the authorized hours of operation of a valet parking services, spaces reserved by the valet parking service shall be available for use by the general public on a first-come, first served basis in accordance with posted signs and/or other traffic control devices, except where parking is restricted or prohibited.

(5) Valet Parking Service Stands

- (a) The applicant may place one valet parking service stand on the public right-of-way at a location approved. The valet parking service stand must be necessary to the general conduct of the valet parking service and shall be used for such

purposes, including, but not limited to, the dispatch of valets and the storage of keys, umbrellas and other necessary items.

- (b) A valet parking service stand shall:
 - a. Not occupy an area of the public right-of-way exceeding four feet in width and four feet in depth;
 - b. Not be affixed to the public right-of-way in any manner;
 - c. Be removed from the public right-of-way when the valet parking service is not being operated; and
 - d. Not unreasonably interfere with pedestrian or vehicular traffic.
- (c) A name and/or logo may be placed on a valet parking service stand for the sole purpose of identifying the valet parking service. The identification of the valet parking service shall be limited to 12 sq. ft.

(6) Location of a Valet Parking Service

- (a) Spaces and stands for a valet parking service may not:
 - a. Be within ten (10) feet of a crosswalk;
 - b. Be within ten (10) feet of a fire hydrant, fire call box, police or other emergency facility;
 - c. Be within five (5) feet of a driveway;
 - d. Be within three (3) feet in front of or fifteen (15) feet behind a sign marking a designated bus stop;
 - e. Be within five (5) feet of a bus bench; or
 - f. Reduce the unobstructed space for the passage of pedestrians to less than four (4) feet.
- (b) The City Manager or his/her designee may require greater distances than those prescribed in this subsection (a) when warranted by special vehicular or pedestrian traffic conditions.

(7) Insurance. (Texas Transportation Code Sec. 686.004)

- (a) The minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility are:
 - a. \$100,000 for bodily injury to or death of one person in one accident;
 - b. \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and
 - c. \$50,000 for damage to or destruction of property of others in one accident.
- (b) The comprehensive general liability insurance must be on a broad form and provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit or the equivalent.
- (c) The garage insurance must provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit, or the equivalent, and must provide the following coverages:
 - a. Comprehensive and collision coverage for physical damage;
 - b. Coverage for vehicle storage; and
 - c. Coverage for a vehicle driven by or at the direction of the valet parking service.

(8) Indemnification and Hold Harmless

The applicant, and any independent contractor used by the applicant must execute a written agreement to indemnify and hold harmless the City and its officers and employees against all claims or injury or damage to persona or property arising out of the operation of the valet parking service.

(9) Sign and Markings

The City Manager and/or his/her designee is authorized to place city signs or curb markings at a location permitted for a valet parking service pursuant to this article. The signs and markings shall:

- (a) Indicate that the location is restricted for use by a valet parking service;
- (b) State the days and hours of operation of the valet parking service; and
- (c) Include a tow away sign.

(E) In-Lieu of Required Parking

(1) Bike Rack In-Lieu of Required Parking. For new development and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, if the property owner elects to install a four unit bike rack. The bike racks shall meet the following conditions:

- (a) Required bicycle parking spaces shall be at least 2 feet by 6 feet, and an access aisle of at least 5 feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least 6 feet;
- (b) Bicycle parking facilities shall be located in a clearly designated safe and convenient location on site;
- (c) The design and location of such facility shall be harmonious with the surrounding environment;
- (d) The facility location shall be at least as convenient as the majority of auto parking spaces provided;
- (e) Where applicable, position racks at least three feet from curb ramps to not impede pedestrian movements, especially those with vision or mobility impairments;
- (f) Do not position racks in loading zones;
- (g) 20 inch minimum distance between rack and curb;
- (h) Do not position racks within roadside bus stops;
- (i) Ensure that a six foot long bicycle can utilize the rack without impeding pedestrians; and
- (j) Only stainless steel or anodized aluminum bicycle parking racks may be used to satisfy the requirements of this section. Bike racks shall be maintained in a structurally sound and rust free state.

(2) In-Lieu Parking Fee. Multi-Family Dwellings located in District “B” and “B-2” may reduce the required on-site parking by electing to use the In-Lieu Parking Fee Option established in this section.

- (a) Fee Collection process. A fee may be paid for multi-family uses in lieu of complying with parking regulations established in the City of South Padre Island, Code of Ordinances, and Chapter 20 Zoning Ordinance. The collection process and the amount of fees for provision of public parking in the Parking System shall be as specified below.

- (b) Amount of Fee.
 - (i) The amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the City Council, but in no case shall exceed the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use.
 - (ii) Fees paid in accordance with this article are collected to fund a general public parking program and are not intended for any specific improvement project. The fees paid shall be the most current fees as established by the City Council.
 - (iii) Any off-street parking requirement satisfied in this manner shall run with the land, and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement.
- (c) Time of Collection of Fees. Fees for all development projects for which payment of fees in lieu of on-site parking is desired shall be paid prior to the issuance of building permits. Fees for development projects which do not require building permits shall be paid before any other applicable City approval is made final.
- (d) Use of Fee. The fees collected shall be used for the following purpose: to construct or provide new public parking spaces.
- (e) Current Fee Schedule. The City Secretary shall maintain the current fee schedule. The City Secretary shall make the current fee schedule available for public review upon request.
- (f) Trust Fund. An interest-bearing trust fund shall be maintained exclusively for the development of the City of South Padre Island Parking System. These trust funds and interest earned by these trust funds shall be used solely for the development of the City of South Padre Island Parking System. Upon receipt by the City of South Padre Island, fees collected shall be deposited in the appropriate Parking trust fund.
- (g) Phasing. If a project is phased, payment of fees pursuant to this article may be similarly phased as agreed upon between the applicant and the Director of Transit and Development.
- (h) Termination. If this fee program is terminated, any excess funds collected prior to dissolution of this fee program shall be used within City of South Padre Island Parking System.

(F) Uses Affecting Parking Areas.

- (a) Parking areas--diminishing by commercial display, etc. prohibited. No person, party or entity may display any wares or merchandise or make any other use of the parking area located upon their property, if said display or use will cause the number of parking spaces to be less than those currently required. In no event may any person make use of the parking area which would effectively cause said property to have less than the minimum legally required parking spaces for the particular property use as is currently required by other ordinances and codes of the City. (Ord. No. 92, 9-2-81)
- (b) No conversion of use unless parking requirements met. No person, party or entity shall convert or change the use of property without also meeting the current required parking requirements for that particular use. (Ord. No. 92, 9-2-81)

- (c) No expansion unless parking requirements met. No person, party or entity may expand, convert or add to any existing use of property without the same meeting the current requirements of parking spaces for the property. (Ord. No. 92, 9-2-81)

(G) Reduction of Required Parking.

Commercial use properties for which a Building Permit has been granted prior to August 26, 2003, may substitute up to twenty percent (20%) of their required parking spaces for landscaping.

Sec.20-15 Certificate of occupancy and compliance.

- (A) Building permit required for change in use. No building erected or structurally altered shall be used, occupied or changed in use until a building permit shall have been issued by the Building Inspector stating that the building or proposed use of a building or premises complies with the building laws and the provisions of this ordinance.
- (B) Certificate of occupancy and compliance required. Certificates of occupancy and compliance shall be applied for coincident with the application for building permit and shall be issued within ten (10) days after the erection and structural alterations of such buildings shall have been completed in conformity with the provisions of this ordinance. A record of all certificates shall be kept on file in the office of the City and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.
- (C) Excavation prohibited without permit. No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.
- (D) Architect or engineer to be legally registered. Before a permit shall issue for a building of three (3) stories or more in height or 5,000 square feet in area, except one and two-family dwellings, the designer of such building shall be an architect or engineer legally registered under the laws of this State and he shall affix his official seal to the drawings and specifications for the building.

Sec.20-16 Board of adjustment; Appeals.

(a) **Creation of Board of Adjustment.** There is hereby created a board of adjustment consisting of five (5) members and three (3) alternate members to be appointed by the City Council. All members, including alternates, must be residents of the City of South Padre Island. Said board shall have all powers vested by the Texas Local Government Code Ch. 211.

(b) **Terms, Removal of Members.** All members of the board shall be appointed for two year terms and shall serve until their successors are appointed and qualified and shall be removable for cause by the City Council upon written charges and after public hearing.

(c) **Vacancies.** Vacancies in the regular membership of the board of adjustment shall be filled by the city council. Vacancies of the alternate board of adjustment member(s) shall be appointed at large by the city council, and determined by majority vote, for the unexpired term of

vacancy. The alternate members serve for the same period and are subject to removal the same as regular members.

(d) **Minimum of four (4) Members at Hearings.** The alternate members of the board of adjustment shall serve in the absence of one (1) or more regular members when requested by the Mayor or City Manager so that all cases heard by the board of adjustment will always be heard by a minimum of four (4) members, in conformity with state law requiring that seventy-five (75) percent of the members of the board hear each case. Alternates may participate in meetings on a rotating basis subject to availability.

(e) **Minutes/Records.** The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be immediately filed in the office of the City Secretary and shall be a public record.

(f) **Meetings and Rules.** The board shall have monthly meetings or at the call of the chairman or in his absence the acting chairman, and at such other times as the board may determine. All board meetings shall be open to the public. The board may adopt rules consistent with this chapter or state law to govern its proceedings.

(g) **Powers of Board.** The board of adjustment shall have the following powers and duties which must be exercised in accordance with this chapter and state law:

- To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance.
- To authorize upon appeal in specific cases, and subject to appropriate conditions and safeguards, such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed and substantial justice done. A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons. In exercising its authority, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. The concurrent vote of seventy-five (75) percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official; decide in favor of an applicant on a matter on which the board is required to pass under the zoning ordinance; or authorize a variation from the terms of a zoning ordinance.

(h) **Compensation of Members.** None

(i) **Notice of Hearings.** Public notice of hearings before the board of adjustment shall be given for each separate appeal thereby by publication one (1) time in a paper of general circulation in the city, stating the time and place of such hearing which shall not be earlier than ten (10) days from the first date of such publication, and in addition thereto, the board of adjustment shall mail notice of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation, or exception, is desired and to all other persons deemed by the board of adjustment to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the city.

Sec. 20-16.1 VARIANCES AND APPEALS, SPECIAL EXCEPTIONS

Sec. 20-16.1. Generally.

(a) **Notice of Hearings.** Public notice of hearings before the board of adjustment shall be given for each separate appeal thereby by mailing notice of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation, or exception, is desired and to all other persons deemed by the board of adjustment to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the city.

(b) **Powers Strictly Construed.** Nothing herein contained shall be construed to empower the board of adjustment to change the terms of the Zoning Ordinance, to effect changes in the official map or to add to the specific uses permitted in any district.

(c) **Findings of Fact.** Every decision of the board of adjustment shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any matter upon which the board is required to pass under this article or to affect any variance in this chapter shall be construed as limitations on the power of the board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific facts shall not be deemed findings of fact and shall not be deemed in compliance with this article.

(d) **Recommendation From Other Public Agencies.** The board of adjustment shall receive and consider recommendations from public and semipublic agencies before rendering a decision in any case before the board. To this end, the board shall, in addition to the other requirements of this chapter, notify all agencies deemed to have an interest in the case.

(e) **Postponement of a Case.**

(1) Prior to the city publishing the board of adjustment case in the newspaper, an applicant may request in writing for the city to postpone the case. In such cases, the applicant shall have six (6) months from the date of the written request for postponement to reactivate the case. After expiration of the six-month period the fees paid shall be non-refundable and the applicant will have to submit a new application with new fees for further consideration of the request.

(2) If a written request for postponement is submitted by the applicant after the city has published the case in the newspaper, the fees paid shall be non-refundable and the hearing will not be rescheduled until the postponement fee has been paid by the applicant. In such cases, the applicant shall have six (6) months from the date of the written request for postponement to reactivate the case; after expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of the request.

(3) If a written request for postponement is submitted by the applicant after the agenda has been posted (seventy-two (72) hours prior to the public hearing), the postponement will be considered by the board of adjustment. If approved by the board, the fees paid shall be non-refundable and the hearing will not be rescheduled until the postponement fee has been paid by the applicant. In such cases, the applicant shall have six (6) months from the date of the board's decision to grant the postponement, to reactivate the case; after expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of the request.

Sec. 20-16.2. Appeals to Board of Adjustment.

(a) Applicability.

(1) Generally. Any of the following persons may appeal to the board of adjustment a decision made by an administrative official: A person aggrieved by the decision; or Any officer, department, board, or bureau of the city affected by the decision.

(b) Initiation.

(1) Application. Such appeal shall be taken by filing with the Planning Department and with the board of adjustment, within the time provided by this chapter, a notice of appeal specifying the particular grounds upon which the appeal is taken and the payment of the fee. Upon receipt of a notice of appeal, the Planning Department shall transmit to the board of adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based.

(2) Automatic Stay. An appeal from an order of the Public Works Director or Planning Director to the board of adjustment shall stay all proceedings unless the City Planner certifies that, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by the board of adjustment or a court of proper jurisdiction.

(3) Time Limit for Appeal. The board of adjustment shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. Appeals to the zoning board of adjustment from any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter shall be made within thirty (30) days after such order, requirement, decision or determination by filing with the director of the department of development services and with the board of adjustment a notice of appeal.

(c) Completeness Review. The Planning Director shall review the notice of appeal for completeness within five (5) working days. The appellate agency for purposes of completeness shall be the board of adjustment.

(d) Decision.

(1) Appearance. A party may appear at the appeal hearing in person or by agent or attorney.

(2) Hearing. The board of adjustment shall consider the appeal at a quasi-judicial public hearing pursuant to Texas Local Government Code § 211.009(b), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official Pursuant to Texas Local Government Code § 211.009(b), the concurring vote of seventy-five (75) percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official.

(3) **Time Limit for Decision.** The board shall decide the appeal within a reasonable time.

(e) Appeal from Board of Adjustment. An appeal from a board of adjustment decision shall be filed pursuant to Texas Local Government Code § 211.011(b) with the District Court or County Court at Law.

Sec. 20-16.3 Special Exceptions

- (A) Purpose and Intent.
A special exception is a permitted land use that is allowed in a zoning district if listed as a special exception use, subject to specific conditions that may be imposed by the Board of Adjustment.
- (B) Procedure.
 - (1) The application shall first be reviewed by City staff for compliance with City codes, regulations, and policies.
 - (2) After reviewing any foreseeable impacts and/or concerns raised at the hearing on the application, the Board of Adjustment may:
 - 1) Grant the application without conditions. In this case, the Board of Adjustment shall determine and state that there is no negative impact on public health, safety and general welfare on the applicable zoning district;
 - 2) Accept the application with conditions; or
 - 3) Deny the application. In this case, the Board of Adjustment shall determine and state that there are negative impacts on public health, safety and general welfare on the applicable zoning district, and those negative impacts cannot be resolved by any conditions.

Sec.20-17 Penalty for violation to apply to owner, architect, builder, etc.

The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and/or any architect, builder, contractor, agent, person and corporation, employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

Sec.20-18 Changes and amendments.

- (A) City Council may change district boundaries. The City Council may from time to time amend, supplement or change by order the boundaries of the Districts or the regulations herein established.
- (B) Submission of changes to the Development Standards Review Task Force. Any proposed changes/revisions/amendments to the Form Based Code (Padre Boulevard and Entertainment District Code) Shall be reviewed by the Development Standards Review Task Force prior to being submitted to the Planning and Zoning Commission. The Development Standards Review Task Force shall make recommendations to the Planning and Zoning Commission
- (C) Submission of changes to Planning and Zoning Commission. Before taking action on any proposed amendment, supplement or change, the City Council shall submit same to the Planning and Zoning Commission for its recommendation and report in the event there is a Planning and Zoning Commission, and if there is no Planning and Zoning Commission then the City Council may amend this ordinance as provided by law.
- (D) Public hearing required. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be published at least once fifteen (15) days prior to the hearing in the newspaper, stating the time and place of such hearing.

Sec.20-19 Variances.

No variance of the provisions of this Chapter may be granted by any official of the City, and may be only granted by the Board of Adjustment, and if there be no Board of Adjustment, by the City Council. (Ord. No. 2A, 8-7-74)

Sec.20-20 Designation of Public Parks, Beaches, etc.

Notwithstanding any provision to the contrary contained within this Zoning Ordinance, the City Council may designate public parks, beach areas, rest areas and other public facilities within any zone in the City.

Sec. 20-21 Required Landscaping.

(A) Applicability:

- (1) All properties for which a Building Permit is granted after the effective date of this Section 20-21 shall be required to comply with these regulations.
- (2) Properties for which a Building Permit dated prior to the effective date of this Section 20-21 (August 26, 2003) has been issued will be required to comply with these landscaping regulations if/when:
 - a) additions or renovations of the property change the square footage of the property by 50% or more; and/or
 - b) the Certificate of Occupancy is modified.
- (3) Under no circumstance may an owner of any property reduce the amount of landscaping to less than the amount required by this section regardless of the time they were issued a building permit or certificate of occupancy.

(B) Maintenance: (

- (1) All landscaping required by these ordinances shall be maintained in a neat and healthy condition. Such maintenance shall be an ongoing obligation of the owner of the property and prompt replacement shall be made of diseased or dead plant materials. The owner shall also be responsible for containing mulch, soil, bark, aggregate, etc. on his or her own property and preventing this debris from washing out of the planting bed and onto the public or private right-of-way.
- (2) City's right to trim and remove. City has the right to prune and remove trees, plants and shrubs within the rights of way of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary for construction, protection and maintenance of public improvements (including utilities) and for public safety.
- (3) Dangerous trees and unsafe conditions. City may remove, or cause or order removal of any tree, shrub or other vegetation or part thereof which (i) creates an unsafe condition, (ii) is injurious to or threatens to injure sewers, electric power lines, gas lines, water lines, or other public improvements, or (iii) is infected with any injurious fungus, insect or other pest.

- (C) **Minimum Area, and Location of Landscaping:** Except as and to the extent otherwise provided herein, all required landscaping shall be placed within the front-of-building area, except that for corner lots such landscaping shall also be placed within the side-of-building-area as well, and shall be distributed fairly equally within such area. For the purpose of calculating the minimum required landscaping area, parking garages, private streets/roads, swimming pools, and those areas enclosed by a visually impenetrable fence/wall having a height of six feet (6') or greater as measured from walking grade will be excluded if located within the front-of-building area or required setback area. In no case shall a property have less than twenty-five (25) square feet of landscaping planted visible from the street.
- (1) Single Family Use: The area of required landscaping shall not be less than 30% of the minimum front yard setback area in accordance with the requirements of this Section 20-21.
 - (2) Townhouse Use: The area of required landscaping shall not be less than 15% of the minimum front yard setback area in accordance with the requirements of this Section 20-21.
 - (3) Commercial / Multifamily Uses (Hotel, Motel, Condominium, Duplex, etc.): The area of required landscaping shall not be less than 20% of the front-of-building area in accordance with the requirements of this Section 20-21. Commercial properties may substitute up to 20% of their required parking spaces only for additional landscaped areas (above and beyond these minimum requirements) if the owner can reasonably justify that the parking is not needed for the business.
 - (4) Corner Lots: An additional 10% of the side-of-building-area shall be landscaped in accordance with the requirements of this Section 20-21.
 - (5) For those developed properties that have no building by which to determine "front-of-building area" (e.g. parking lots), the area of required landscaping shall not be less than 10% of the entire lot in accordance with the requirements of this Section 20-21, also distributed fairly equally within the lot.
 - (6) Other materials such as planters, bark mulch, brick, stone, natural forms, water forms, and aggregate (but not concrete or asphalt) may be used provided the 80% coverage of live plant materials will be achieved. Plant material will be measured at a point no higher than 3 feet above grade.
- (D) **Tree Requirements:** For the purposes of this section, trees shall be planted within the required landscaped area at a ratio of one tree per 300 square feet of required landscaped area; provided, however, that no less than one (1) tree shall be planted on each lot.
- (E) **Lines of Sight:** To minimize traffic hazards at street or driveway intersections, all landscape installations must provide unobstructed views in accordance with sight triangle requirements as denoted within Article 2.22 of the *Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas*.
- (F) **Trees in Public Easements:**
- (1) Existing trees shall be maintained wherever possible.
 - (2) Tree planting shall be avoided within public easements.

(3) When planting is required by City Ordinance or landscaping plan, the owner shall plant only (i) shrubs or (ii) trees listed in the table. Tall trees that are not listed in the table shall be planted only in places that are not under or within fifteen (15) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground public utility line.

(4) When specific tree species cannot be found from the table, the Director of Development Services has discretion to approve or deny the landscape plan that is leading into a building permit.

Scientific Name	Common Name	Secondary Name	Leaf Type	Texas Native	Firewise	Height (ft)
<i>Vitex agnus-castus</i>	Lilac Chastetree	Vitex	Deciduous	No	Yes	15
<i>Cephalanthus occidentalis</i>	Common Buttonbush		Deciduous	Yes	Yes	18
<i>Acacia farnesiana</i>	Huisache	Sweet Acacia	Semi-evergreen	Yes	Yes	20
<i>Acer palmatum</i>	Japanese Maple		Deciduous	No	Yes	20
<i>Aesculus pavia</i> var. <i>pavia</i>	Red Buckeye		Deciduous	Yes	Yes	20
<i>Cercis canadensis</i> var. <i>mexicana</i>	Mexican Redbud		Deciduous	Yes	Yes	20
<i>Cordia boissieri</i>	Wild Olive	Maxican-Olive	Evergreen	Yes	Yes	20
<i>Crataegus</i> spp.	Hawthorn		Deciduous	Yes	Yes	20
<i>Frangula caroliniana</i>	Carolina Buckthorn	Indian Cherry	Deciduous	Yes	Yes	20
<i>Hamamelis virginiana</i>	American Witchhazel	Witch Hazel	Deciduous	Yes	Yes	20
<i>Helietta parvifolia</i>	Baretta		Evergreen	Yes	Yes	20
<i>Ilex decidua</i>	Deciduous Holly	Possumhaw	Deciduous	Yes	Yes	20
<i>Lagerstromia indica</i>	Crapemyrtle	Crape Myrtle	Deciduous	No	Yes	20
<i>Morella cerifera</i>	Southern Bayberry	Waxmyrtle	Evergreen	Yes	Yes	20
<i>Pyrus calleryana</i>	Callery Pear	Ornamental Pear	Deciduous	No	Yes	20
<i>Rhus copallinum</i>	Shining Sumac	Winged Sumac	Deciduous	Yes	Yes	20
<i>Rhus lanceolata</i>	Prairie Sumac	Flameleaf Sumac	Deciduous	Yes	Yes	20
<i>Sophora affinis</i>	Eve's Necklace	Texas Sophora	Deciduous	Yes	Yes	20
<i>Sophora secundiflora</i>	Mescalbean	Texas Mountain Laurel	Evergreen	Yes	Yes	20
<i>Ungnadia spexiosa</i>	Mexican Buckeye		Deciduous	Yes	Yes	20
<i>Viburnum rufidulum</i>	Rusty Blackhaw	Rusty Blackhaw Viburnum	Deciduous	Yes	Yes	20
<i>Zanthoxylum fagara</i>	Colima	Lime Pickly Ash	Evergreen	Yes	Yes	20
<i>Chilopsis linearis</i>	Desert Willow		Deciduous	Yes	Yes	25
<i>Chionanthus virginicus</i>	White Fringetree	Grancy Graybeard	Deciduous	Yes	Yes	25
<i>Condalia hookeri</i>	Brazilian Bluewood	Brasil	Evergreen	Yes	Yes	25
<i>Ilex vomitoria</i>	Yaupon Holly	Yaupon	Evergreen	Yes	No	25
<i>Prosopis pubescens</i>	Screwbean Mesquite	Tornillo	Deciduous	Yes	Yes	25
<i>Prunus mexicana</i>	Mexican Plum		Deciduous	Yes	Yes	25
<i>Quercus incana</i>	Bluejack Oak	Sandjack Oak	Deciduous	Yes	Yes	25

(G) Landscape Plan submission and validity:

- (1) The location and square footage of all landscaping required by this ordinance shall be shown on a site plan submitted with any application for a building permit. Square footages of all landscaping areas and

number and location of trees shall be shown on the site plan. A Certificate of Occupancy will not be issued until the applicant has installed all required landscaping.

- (2) The Building Inspector may at his/her discretion issue a temporary Certificate of Occupancy, not to exceed 60 days, in the event of inclement weather, natural disasters, or for other good cause shown.
 - (3) Approved landscaping plans shall be valid as long as the building permit for the project is valid.
- (H) Enforcement: Should any person fail to comply with the requirements of this chapter, such failure shall constitute a violation as set forth in Section 20-17 and 21-2 of these City Ordinances.

Sec. 20-22 (Reserved)

Sec. 20-23. PLANNED DEVELOPMENT DISTRICTS (PDD DISTRICT).

(A) Purpose and Intent.

The purpose of each and every Planned Development District is and shall be to:

- 1) Provide flexibility in planning for the development of medium and large tracts of land (and, in appropriate circumstances as set forth herein below, small tracts of land) incorporating one or more types of residential or commercial development and related uses which are planned and developed as a unit;
- 2) Establish a procedure for the development of one or more tracts of land under unified control in order to reduce or eliminate the inflexibility that would otherwise result from strict application of land use standards and procedures which are designed primarily for individual lots;
- 3) Ensure orderly and thorough planning and review procedures that will result in quality design and the creation and improvement of common open space and pedestrian circulation;
- 4) Encourage mixed uses and avoid monotony in large developments by allowing greater freedom and flexibility in selecting the means to provide access, light, open space, and amenities; and
- 5) Provide for flexibility in the strict application of certain land use regulations, development regulations, and design standards as set forth elsewhere in the City of South Padre Island Zoning Ordinance.

(B) Creation of Planned Development District. The City Council of the City of South Padre Island, after public hearing and proper notice to the public generally (via publication) and to all landowners individually whose property (or any portion thereof) lies within two hundred feet (200') of any portion of the proposed planned development district (via certified mail), may authorize a Planned Development District upon and in accordance with the provisions of the Section 20-23.

(C) Authorized Land Uses. Land located within any authorized Planned Development District may be used:

- 1) for any residential or commercial use which is permitted in any other district authorized by the City of South Padre Island Zoning Ordinance, and/or
- 2) for any combination of one or more of such authorized uses.

(D) **Minimum District Size.**

- 1) **General Rule.** Except as otherwise authorized by this Section 20-23, no Planned Development District shall be authorized, created or permitted which is less than five (5) acres in gross area. Notwithstanding anything contained in the City of South Padre Island Zoning Ordinance or otherwise to the contrary, the perimeter boundaries of the proposed district (without any deduction whatsoever of or for any areas within the proposed district) shall be used in determining the gross area of any proposed planned development district. No such district may surround, encompass or incorporate any land which is not a part of such district.
- 2) **Exception.** Notwithstanding the general rule set forth in Section 20-23 (D)(1) above, the City Council may (but are not required to) authorize the creation of a planned development district encompassing one or more discrete parcels of land which are under unified control, but which total less than five (5) acres in gross area, if the Board finds:
 - i. That specific, identifiable circumstances [e.g., geographic or other features which adequately differentiate such parcels(s) from adjoining properties] make application of the purposes of planned development districts to such parcels(s) appropriate;
 - ii. That the land uses proposed to be incorporated within such sub-sized district are not incompatible with the existing land uses surrounding such proposed district; and
 - iii. That the creation of such sub-sized districts will not result in an instance of "spot zoning".

All other requirements and provisions of this Section 20-23(D)(2) to the contrary, no special development district shall be authorized, created or permitted which does not include all of the land located within any block within which any part of the proposed district exists.

(E) **Requirements; Procedures.** Any person or entity who desires to develop property located within the jurisdiction of this ordinance and who desires to have such property approved as a PDD (the "applicant" shall comply with the following:

- 1) The applicant shall first submit to the Planning and Zoning Commission of the City of South Padre Island (the "Commission") a written request for the approval of such property as a PDD, on such form as may be prescribed for such purpose by the City's Director of Public Works. Such application shall be accompanied by a full legal description of the property together with a title report, power of attorney, or other satisfactory evidence confirming that the property proposed for inclusion in the PDD is under the unified control of the applicant.
- 2) Prior to any consideration of such application by the Commission, the applicant shall first submit to the Commission a comprehensive site plan of the proposed development (provided, however, that an applicant may submit a "concept plan" containing less than the full information required hereunder, as a means for obtaining Commission reaction and input to the applicant's project). Such site plan shall show building footprints, locations uses, height limitation, public or private streets, drives or other means of ingress and egress, sidewalks, utilities, on-site drainage, parking spaces, lot coverage,

yards and open spaces, common areas, landscaping, screening walls and/or fences, and any other development and protective requirements considered necessary to create a reasonable transition onto, as well as adequate protection for, adjacent property. The site plan shall be accompanied by a statement from the applicant specifying the unique characteristics of the proposed project, special design standards, if any (including a schedule of proposed building materials, and physical samples thereof if desired by the applicant or required by the Commission), special features, and the applicant's vision for the project. If the contemplated development is intended to proceed in separate phases, the separate phases shall be identified and a projected schedule of the order in which the phases will be completed shall also be included.

- 3) The Commission shall consider the application, the comprehensive site plan, and related statements submitted by the applicant. In so doing, the Commission shall provide guidance to the applicant as to those features of the submissions, if any, which the Commission deems unacceptable or inadvisable, and shall afford the applicant reasonable opportunity to modify or amend its submissions so as to address any such unacceptable or inappropriate items. At such time thereafter as the applicant requests, or when the Commission determines that further modification of the submissions is not forthcoming, the Commission shall vote to approve or disapprove the proposed district. In approving any PDD, the Commission may also recommend imposing specifically. Variation from City requirements may be allowed in order to create the character and nature of the project, but except as and to the extent otherwise expressly approved by the Commission, City standards for subdivision and construction shall apply.
- 4) If the Commission votes to approve the proposed district, such approval shall be deemed an affirmative recommendation to the City Council, and such approval, including any recommended conditions and any approved variations from City standards, together with the application, the site plans as approved by the Commission, and any related statements of the applicant, shall be forwarded to the City Council for approval or disapproval. If the Commission votes to disapprove the proposed district, such disapproval shall be deemed a negative recommendation to the City Council, and the reasons for the Commission's disapproval shall be set forth in the minutes of the Commission's proceedings and furnished to the City Council (together with the application, the site plan, as dis-approved by the Commission, and any related statements of the applicant). The applicant may appeal any such disapproval to the City Council upon giving the Commission notice of such intent within fifteen (15) days after the date of the Commission's vote of disapproval.
- 5) Upon receipt of an affirmative recommendation from the Commission, or upon any appeal by an applicant of a negative recommendation from the Commission, the City Council shall approve or disapprove the creation of the proposed PDD. In approving any such PDD, the City Council may impose such conditions relative to the standard of development generally, or relative to particular aspects of the plan specifically, as the Board deems in the best interests of the City of South Padre Island. Such conditions shall not be construed as conditions precedent to approval of the zoning amendment, but

shall be construed solely as conditions precedent to the granting of a Certificate of Occupancy for any building, other structure or improvement located within such district.

- 6) Upon approval of any proposed PDD by the City Council, the final site plan as approved, together with any standards, conditions or requirements imposed in connection therewith, shall be automatically incorporated within, and shall thereafter comprise a part of the City of South Padre Island Zoning Ordinance, and shall be applicable within the boundaries of such approved PDD.

Editors Note: The Shores Subdivision depicted on the City zoning map is the only Planned Development District approved by the City with an extensive set of standards and specification that are on file in the Planning Department of the City.

Sec. 20-24 Specific Use Permits, as follows:

(A) Purpose and Intent

(1) The City Council of the City of South Padre Island, Texas, after a public hearing and proper notice to all parties affected and after recommendations by the Planning & Zoning Commission may authorize the issuance of Specific Use Permits.

(2) The purpose and intent of a Specific Use Permit is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of a Specific Use Permit application.

(B) Procedure

(1) The Planning & Zoning Commission in considering and determining its recommendations to the City Council on any request for a Specific Use Permit may require from the applicant plans, information, operating data, and expert evaluation concerning the location, function, and design characteristics of any building or use proposed.

(2) The City Council may, in the interest of the public welfare and to insure compliance with this ordinance, establish conditions of operation, location, arrangement, and type and manner of construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the City Council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, traffic, or other undesirable or hazardous conditions.

(3) All Specific Use Permits approved in accordance with the provisions of this ordinance in its original form or as hereafter amended shall be referenced on the Zoning Map.

(C) Supplementary Regulations for Amusement Redemption Machine Establishments

(1) Prior to formally requesting a Amusement Redemption Machine Establishment Specific Use Permit application the applicant(s) and owners shall secure a criminal background check from the City's Police Department and submit the report as an attachment to the application for the Special Use Permit.

(2) Applicant's, an applicant's spouse, or an employee convicted of any of the following offenses as described in Chapter 43 of the Texas Penal Code within a period of five years preceding the application, are ineligible to submit a Specific Use Permit. An applicant, an applicant's spouse or an employee has been convicted of a felony as defined in section 1.07 of the Texas Penal Code within a period of five years preceding the application; an applicant, an

applicant's spouse or an employee has been convicted any of the gambling offenses as described in Chapter 47 of the Texas Penal Code within a period of five years preceding the application; an applicant, an applicant's spouse or an employee has been convicted any of the following offenses as described in Chapter 21 of the Texas Penal Code within a period of five years preceding the application:

a. public lewdness; b. indecent exposure; or c. indecency with a child.

(3) Amusement Redemption Machine Establishment shall be prohibited within 300 feet of the following: a. church; b. school; or c.. hospital

(4) The sale, distribution and possession of alcoholic beverages are prohibited in an Amusement Redemption Machine Establishment Uses.

(5) PERSONS UNDER 18 PROHIBITED; SIGN TO BE DISPLAYED

a. No person under the age of 18 years shall be permitted on the premises of any Amusement Redemption Machine establishment unless accompanied by a parent or adult guardian.

b. Any person holding a Specific Use Permit to operate an Amusement Redemption Machine permit shall prominently display on the premises a sign reading as follows:

"PLAY BY MINORS UNDER EIGHTEEN YEARS OF AGE NOT ALLOWED UNLESS ACCOMPANIED BY PARENT OR ADULT GUARDIAN".

(6) A person who operates Amusement Redemption Machine establishment commits an offense if he knowingly permits a person under 18 years of age to enter or remain on the premises unless accompanied by a parent or adult guardian.

(7) Doors to access the Amusement Redemption Machine Establishment shall be limited to the front of the building.

(8) The City Council shall establish a fee required to capture the cost of administering the Specific Use Permit.

(9) No Specific Use Permits shall be issued to operate Amusement Redemption Machine Establishments in the "A", "E", "B" and "B-2" Zoning District. Specific Use Permits may be granted for Amusement Redemption Machine Establishments in "C", "C-2" "D", "D-1" and "D-2".

Sec. 20-25 Urban Design Model Projects.

a) Purpose. The purpose and intent of Urban Design Model Project is to allow the City to authorize the implementation of model projects which through urban design enhance the City's built environment by improving safety and mobility for vehicles, pedestrians, and bicyclist.

The City Council may approve "Urban Design Model Project" which through urban design, public-private partnerships, and multi-modal transportation alternatives results in a superior urban form than realized through our current development regulations. Demonstration projects must clearly contribute to greater safety through design for pedestrians, bicyclist and motorist.

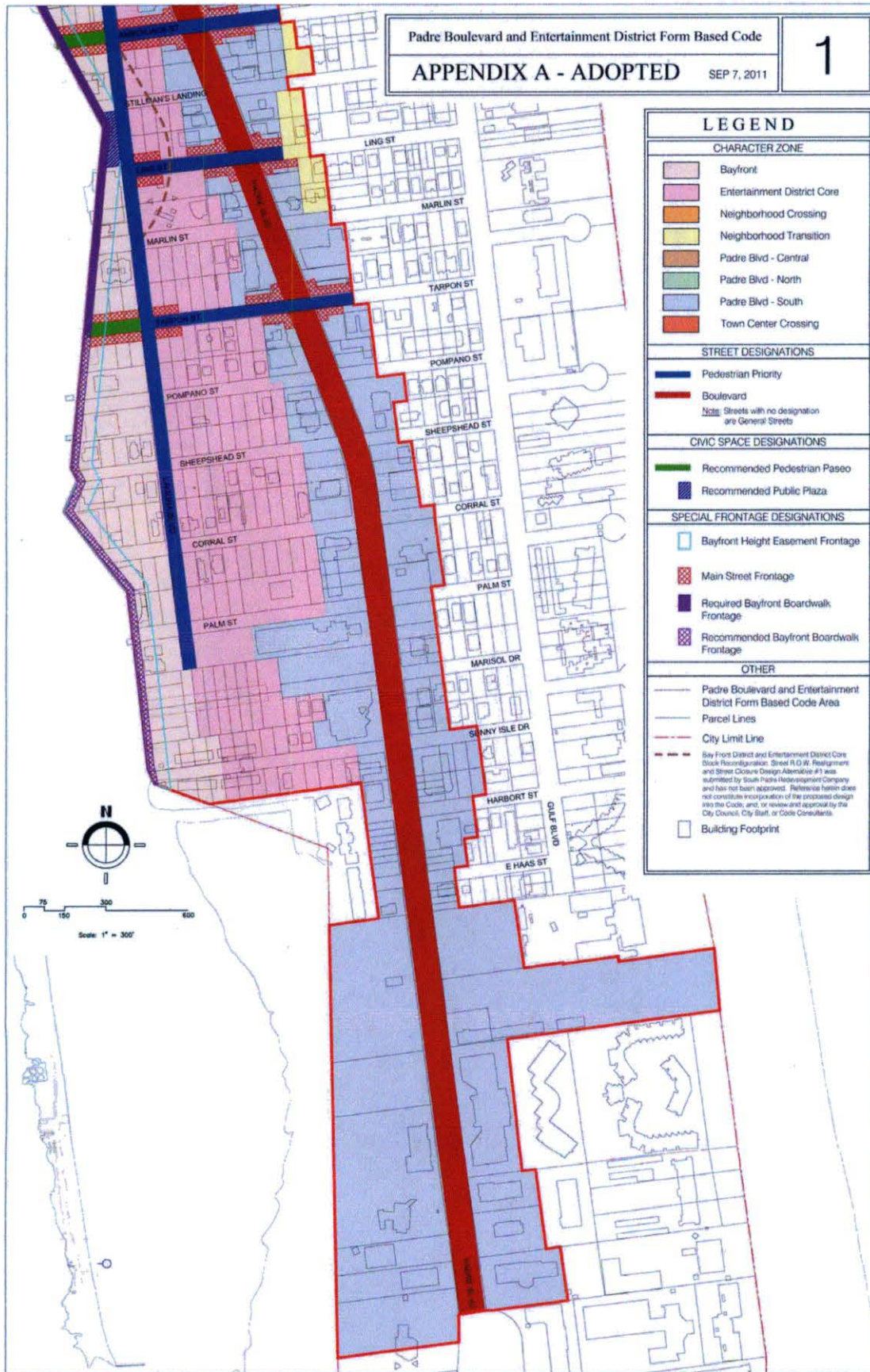
Approval of Urban Design Model Projects shall authorize the applicant to develop a project with:

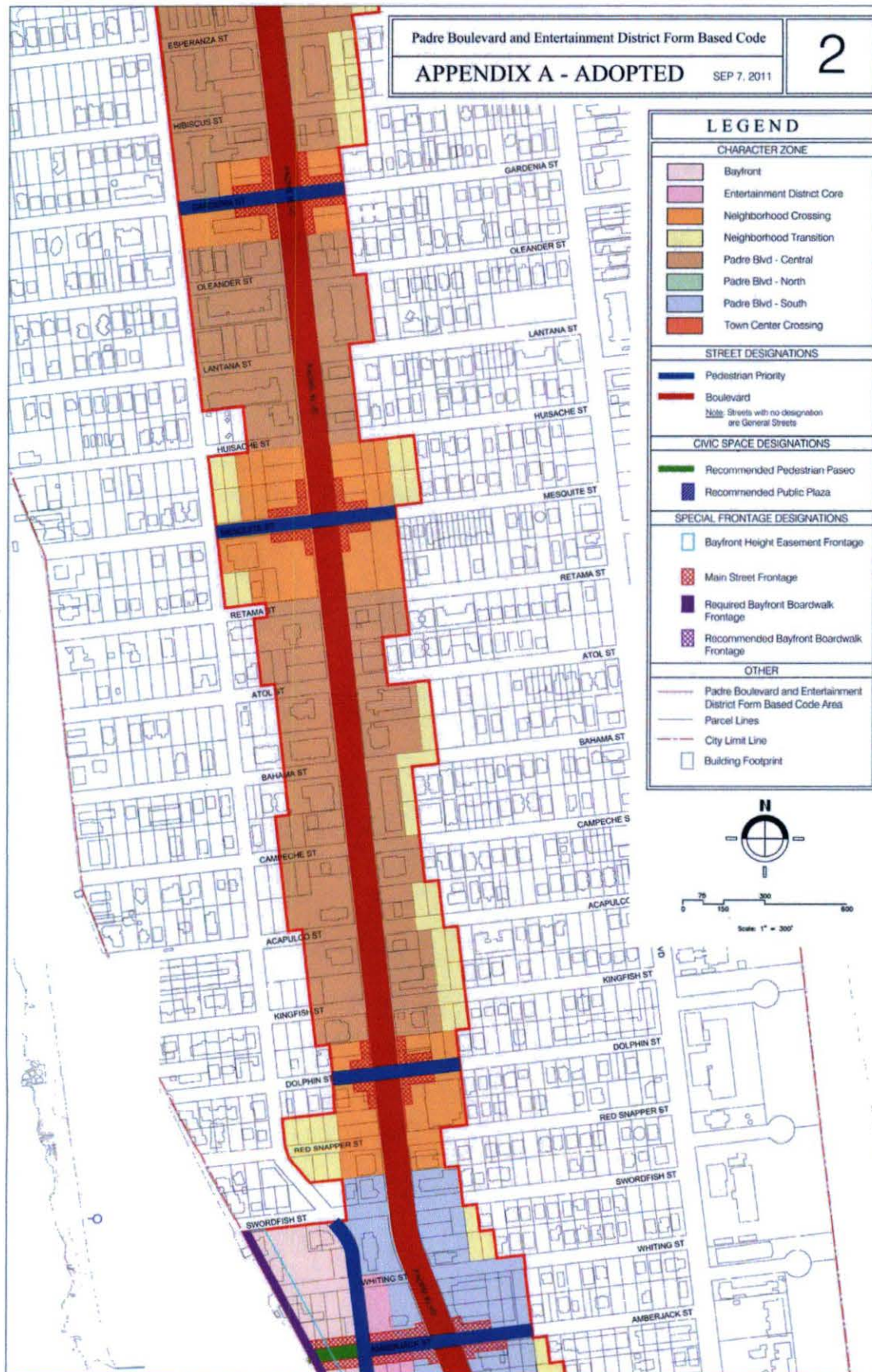
- 1) Alternate front, side, rear yard setback
- 2) Reduced parking requirements
- 3) Encroachments in pedestrian easements for building awnings and tables
- 4) Outdoor dining
- 5) Alternate Floor heights
- 6) Alternative signage requirements
- 7) Alternative parking layouts

b) Procedure: An applicant for an Urban Design Model Project must submit an application to be placed on the agenda for the Planning and Zoning Commission for review and recommendation of the proposed project. The Planning and Zoning Commission shall prepare a report for the City Council prior to the City Council considering the request for designation of an Urban Design Model Project. The application must describe the proposed project including, variations from Zoning Regulations and enhanced elements of urban design achieved through the proposed Urban Design Model Project. [Ord 09-16, 11/18/09]

INT CHAPTER

Editors Note The following five pages have a portion of Appendix A of the Padre Boulevard and Entertainment District Code that was adopted as Appendix “Z”. The entire Appendix “Z” is on file with the City Planner





Padre Boulevard and Entertainment District Form Based Code

APPENDIX A - ADOPTED

SEP 7, 2011

3

LEGEND

CHARACTER ZONE

- Bayfront
- Entertainment District Core
- Neighborhood Crossing
- Neighborhood Transition
- Padre Blvd - Central
- Padre Blvd - North
- Padre Blvd - South
- Town Center Crossing

STREET DESIGNATIONS

- Pedestrian Priority
- Boulevard
- Note: Streets with no designation are General Streets

CIVIC SPACE DESIGNATIONS

- Recommended Pedestrian Paseo
- Recommended Public Plaza

SPECIAL FRONTAGE DESIGNATIONS

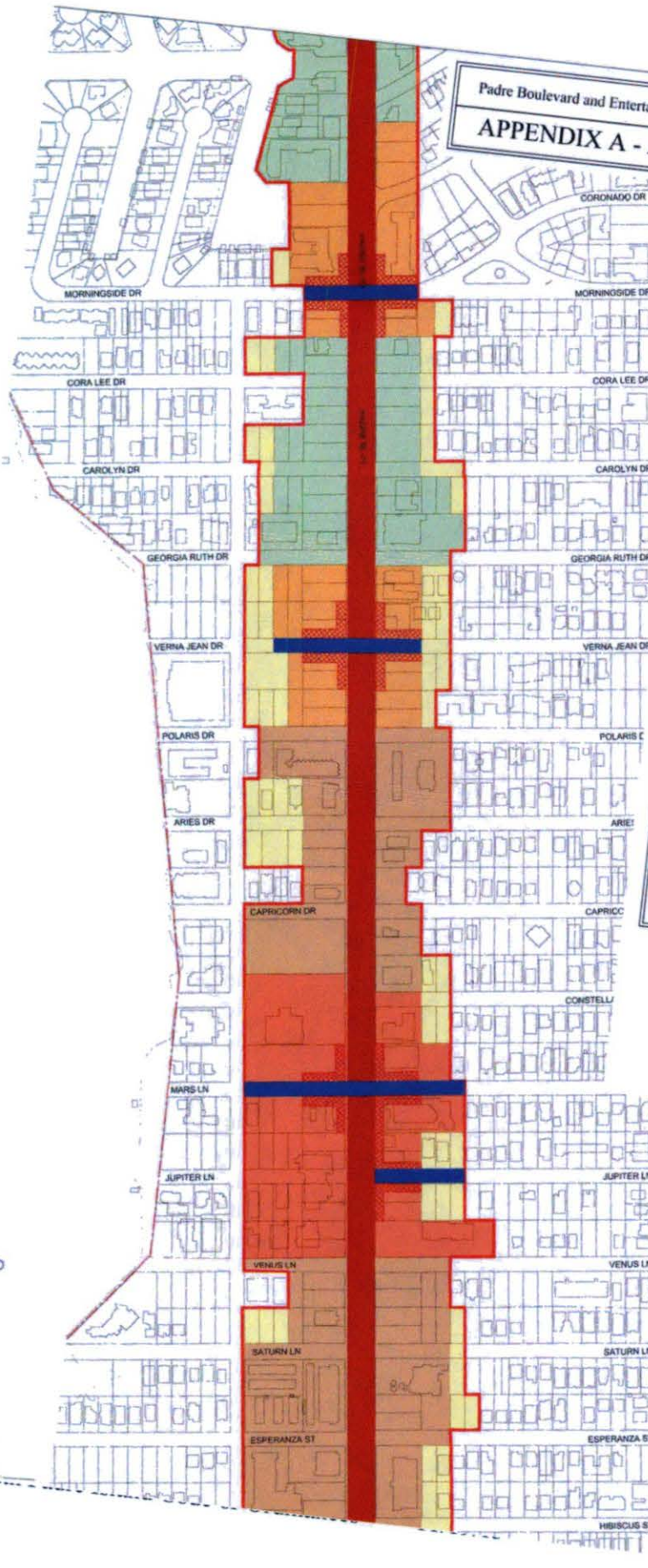
- Bayfront Height Easement Frontage
- Main Street Frontage
- Required Bayfront Boardwalk Frontage
- Recommended Bayfront Boardwalk Frontage

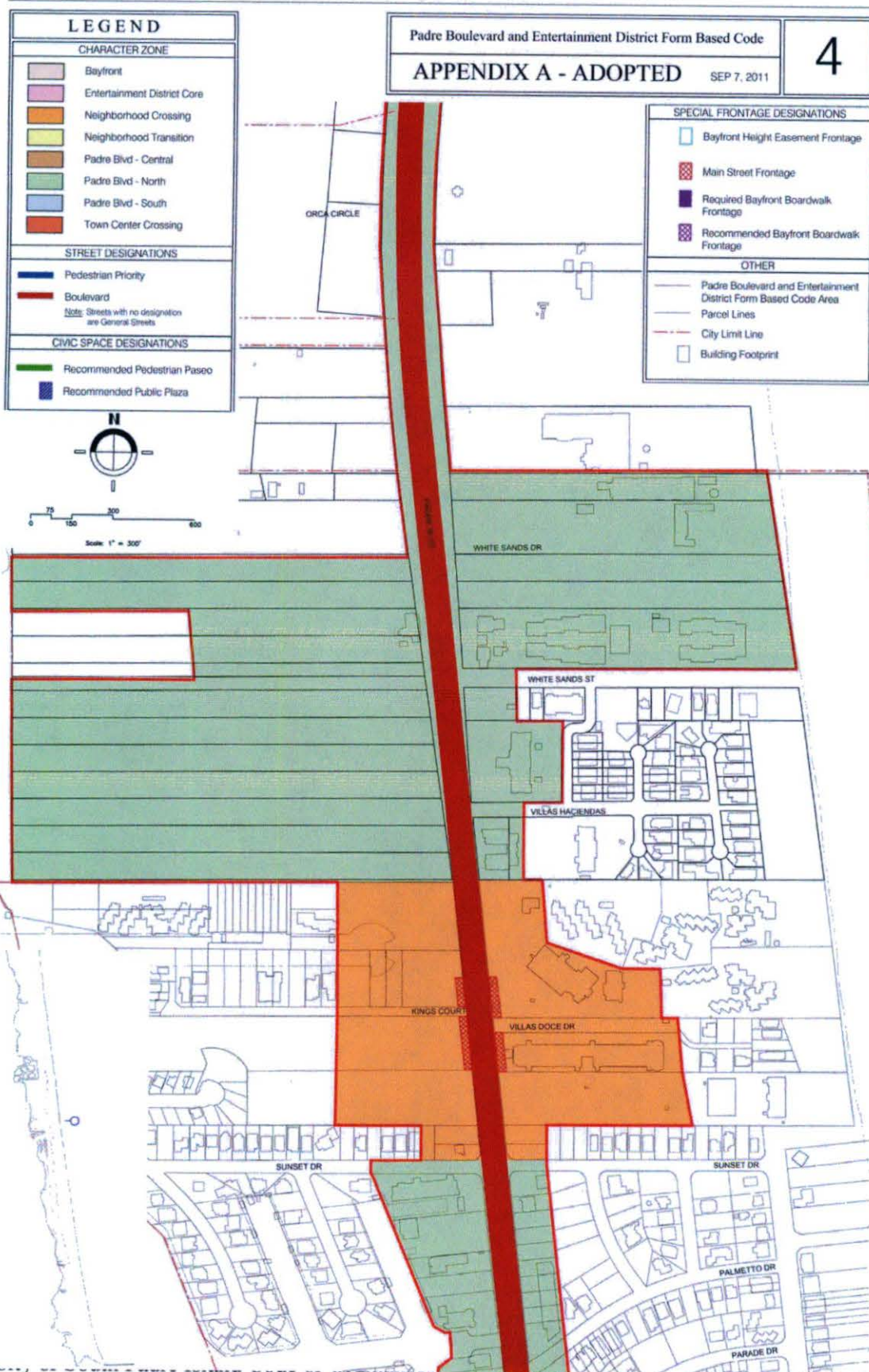
OTHER

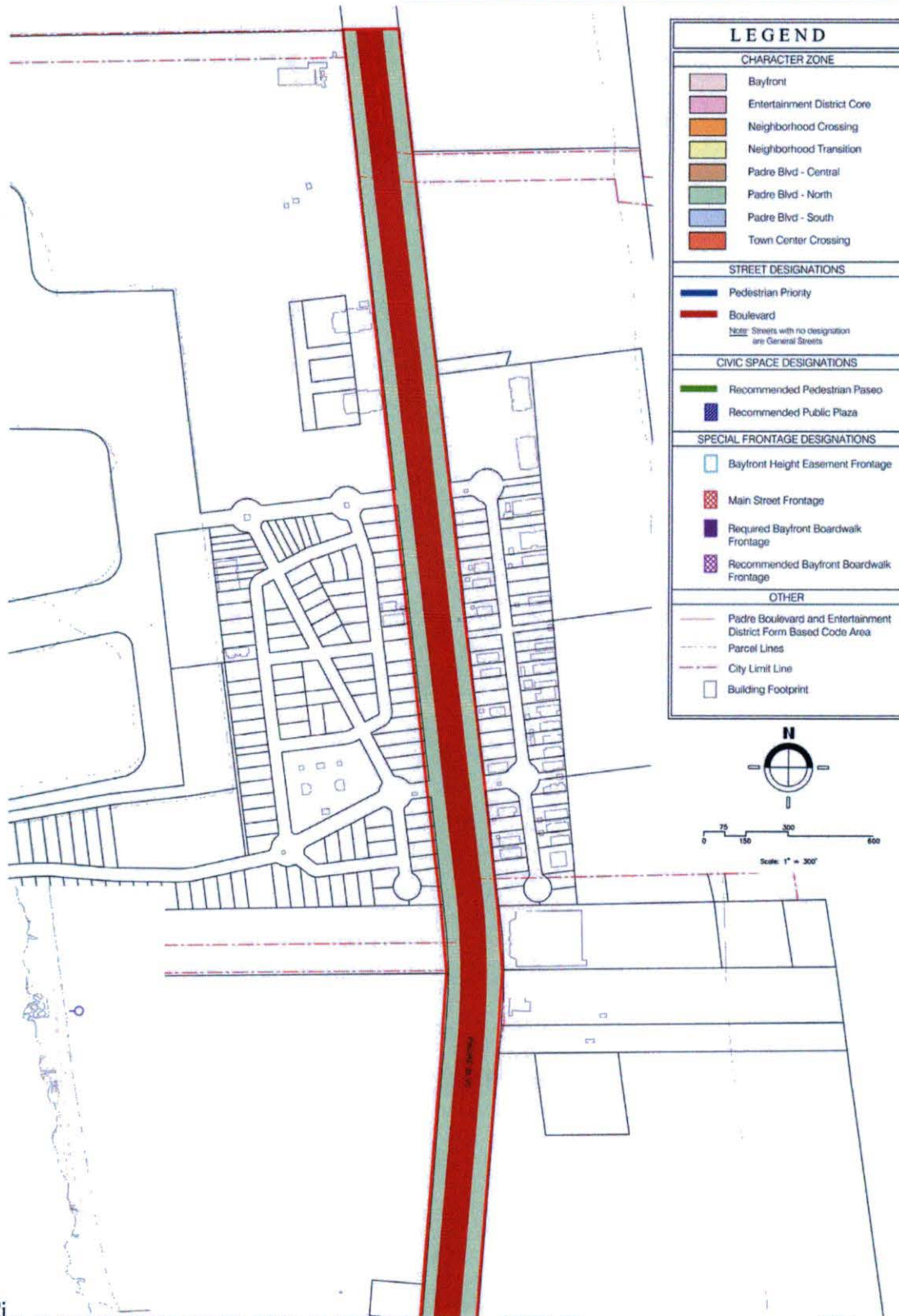
- Padre Boulevard and Entertainment District Form Based Code Area
- Parcel Lines
- City Limit Line
- Building Footprint



Scale: 1" = 300'







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Chapter 21

Penalty Provisions.

Sec. 21-1. Penalty Not to Exceed Five Hundred Dollars (\$500.00).

Whenever Chapters 3, 4, 5, 11, 12, 13, 14, 15, 16, 17, 18, 22 and 23 of the Code of Ordinances prohibit or make or declare an act to be unlawful or an offense a misdemeanor, or whenever in said Chapters of the Code of Ordinances the doing of an act is required or the failure to do any act is declared unlawful, the violation of any such provision of any of said Chapters shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense or for each day such offense shall continue.

Sec. 21-2. Penalty Not to Exceed Two Thousand Dollars (\$2,000.00).

Whenever Chapters 8, 9, 10, and 20 of the Code of Ordinances prohibit or make or declare an act to be unlawful or an offense a misdemeanor, or whenever in said Chapters of the Code of Ordinances the doing of an act is required or the failure to do any act is declared unlawful, the violation of any such provision of any of said Chapters shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense or for each day such offense shall continue.

(Ord. No. 148, 2-20-91)

CHAPTER 22

DUNE PROTECTION, BEACH RENOURISHMENT, AND ACCESS PLAN IMPLEMENTING PROVISIONS

Sec. 22-1. DEFINITIONS.

For the purpose of this ordinance, the following words and terms as used herein are defined to mean the following:

“Beach Access and Use Plan” shall be that plan that is adopted by the City of South Padre Island pursuant to 61.015 of the Texas Natural Resources Code (i.e. this document).

“Beach & Dune Protection Permit” means a permit that is required for all construction activities East of the Dune Protection Line, and which requires the full review and approval of the General Land Office, the Office of the Attorney General, the Beach and Dune Task Force, and the City Council.

“Beach and Dune Task Force” means an advisory body consisting of seven (7) individuals appointed by the City Council whose task shall be to review and make recommendations to the City Council regarding Beach and Dune Protection permit applications and the Beach Access Plan.

“Coppice Mounds” means the initial stages of dune growth formed as sand accumulates on the downwind side of plants and other obstructions on or immediately adjacent to the beach seaward of the foredunes. Coppice mounds may be unvegetated.

“Construction” means causing or carrying out any building, bulk heading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. “Building” includes, but is not limited to, all related site work and placement of construction materials on the site; however, “Building” does not include maintenance activities. “Filling” includes, but is not limited to disposal of dredged materials. “Excavation” includes, but is not limited to removal or alteration of dunes and dune vegetation and scraping, grading, or dredging a site. “Substantial improvements to land or the size of any structure” includes, but is not limited to creation of vehicular or pedestrian trails, landscape work (that adversely affects dunes or dune vegetation), and increasing the size of the structure.

“Critical Dune Area” means those portions of the beach/dune system as designated by the Texas General Land Office, that are located within 1,000 feet of mean high tide of the Gulf of Mexico that contain dunes and dune complexes that are essential to the protection of public beaches, submerged land, and State-owned land, such as public beaches and coastal public lands, from nuisance, erosion, storm surge, and high wind and waves. Critical dune areas include, but are not limited to, the dunes that store sand in the beach/dune system to replenish eroding public beaches. Specifically within the corporate municipal limits of the City of South Padre Island, Critical Dune Areas encompass the undeveloped portions of the City East of the right-of-way of Gulf Blvd. and the extension thereof, or 1000 ft West of mean high tide, whichever is lesser.

“Damage to Dunes” means any unauthorized alteration to dunes or dune vegetation.

“Designated Beach Access Areas” means all dedicated street rights-of-way abutting the Gulf of Mexico and any other dedicated beach access route(s) that may be designated as a beach access area.

“Dune” means a natural or man-made emergent mound, hill, or other ridge of sand either bare or vegetated, located on land which is adjacent to the waters of the open Gulf of Mexico.

“Dune Enhancement Permit” means a permit issued by the City Manager or designee after the applicant has satisfied the City that the proposed activities will only elevate dune height and/or promote dune vegetation propagation; will not negatively impact or alter existing dunes and/or dune vegetation; and is consistent with the City’s plan to create a continuous dune line.

“Dune Protection, Beach Renourishment, and Access Plan Ordinance” means Chapter 22 of the City of South Padre Island Code of Ordinances.

“Dune Protection Line” means a line established within the City of South Padre Island that shall be the East right-of-way of Gulf Blvd and a line extended therefrom to the North property line of Lot 20 of Padre Beach Estates and to the south boundaries of the City’s Corporate Limits, or 1000 feet from Mean High Tide whichever is lesser. In the area of The SHORES Subdivision, the Dune Protection Line is designated as the east right-of-way of Texas State Park Road 100 or 1000 feet from Mean High Tide, whichever is lesser.

“Dune Ridge Construction” means those City-sponsored and authorized activities involved solely with modifying the shape and/or size of dunes and/or dune vegetation east of the Historic Building Line. In those instances where dune heights and/or dune vegetation are proposed to be elevated and/or enhanced, the City Manager or designee is given the authority to permit the activity. However, in those instances where dune height(s) and/or dune vegetation is/are proposed to be reduced, the property owner will be required to submit an application for a Dune Ridge Construction Permit that will be reviewed and approved by the City, the General Land Office, and the Office of the Attorney General.

“Erosion” is the wearing away of land or the removal of beach and/or dune material by wave action, tidal currents, littoral currents or deflation. Erosion includes but is not limited to horizontal recession and scour and can be induced by human activities.

“FEMA” means the Federal Emergency Management Agency of the United States Government. This agency administers the national Flood Insurance Program and the Flood Insurance Rate Maps.

“Foredune” means those dunes which offer the first significant means of dissipating storm generated wave and current energy ensuing from the open Gulf of Mexico. Because various heights and configuration of dunes may perform this function, no standardized physical description can be offered. However, where they occur, foredunes are distinguishable from surrounding dune types by their relative location and physical appearance. Foredunes are the first distinguishable, usually grass-covered stabilized large dunes encountered landward from the

open Gulf of Mexico. Although they may be large and continuous, foredunes are typically hummocky and discontinuous, and are often interrupted by breaks and wash over channels.

“GLO” means the General Land Office of the State of Texas.

“Historic Building Line” shall mean that line established by the Texas Attorney General that indicates the buildable depth line for the construction of buildings or structures on or to the landward side of the line. The only exceptions to construction seaward of this line shall be that area designated in the survey labeled “Exhibit B” for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X. ~~Such~~ The Historic Building Line is located on a map (drawn by Chas R. Haile Associates, Inc., Consulting Engineers, Houston, Texas City, Corpus Christi, Nederland, dated March 1981) provided by the Texas Attorney General and is on file with the Public Works Department of the City of South Padre Island. The line was intended to retain a minimum of two hundred feet of open beach above the mean low tide line according to then available data and is subject to change by the Attorney General to ensure the protection of the State’s open beaches.

“Line of Vegetation” means the extreme seaward boundary of natural vegetation which spreads continuously inland.

“Maintenance (Maintenance Activities)” means those activities involved with repairing and/or renovating existing structures and those that do not alter or increase the foot print of existing structures, increase the impervious surface on the property, impact the public’s access to or use of the beach, or adversely impact dunes and/or dune vegetation. Maintenance activities include, but are not limited to: repairing or replacing siding, steps, roofs, windows, doors, fences, sidewalks, landscaping. Maintenance activities will require a Property Maintenance Permit.

“Manufacture” means something made from raw materials by hand or by machine. (i.e. anything man-made).

“Practicable”. In determining what is practicable, the City shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique, as well as the cost of the technology or technique.

“Property Maintenance Permit” means a permit which is required for all maintenance activities East of the Dune Protection Line that can be issued by the City Manager or designee without the necessary review of the General Land Office, Office of the Attorney General, Beach and Dune Task Force, and the City Council.

“Public Beach” means any beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time in memorial as recognized by law or custom. This definition does not include a beach that is not accessible by a public road or ferry as provided in Section 61.021 of the Texas Natural Resources Code.

“Retaining Wall” means a structure designed primarily to contain material and to prevent the sliding of land.

“Retaining Wall / Walkway Maintenance” means those activities that result in the raking and/or moving of debris, litter, trash and non-vegetated sand that has accumulated in designated walkways or within ten (10) feet of an established retaining wall or fence. Retaining wall / Walkway maintenance activities shall not be construed to allow excavation, trimming or disturbance of natural dune formations seaward of the dune protection line or the removal of sand, either temporary or permanent, from the beach/dune system within the City.

“Retaining Wall / Walkway Maintenance Permit” means a permit which is required for all retaining wall/walkway maintenance activities East of the Dune Protection Line that can be issued by the City Manager or designee without the necessary review of the General Land Office, Office of the Attorney General, Beach and Dune Task Force, and the City Council.

“Structure” includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement construction on or affixed to land.

“Seawall” means a manufactured embankment located along a shoreline designed and engineered specifically to withstand flooding and wave action. Seawalls are not authorized east of the City’s Dune Protection Line.

“City” means all area within the corporate municipal limits of the City of South Padre Island, Texas.

“Washover” means local areas that channel hurricane flood tide across barrier islands and peninsulas into bay areas.

Sec. 22-2. GENERAL PROVISIONS

A. The City Council does hereby establish the Shoreline Task Force whose charge it shall be to identify problems, develop goals and objectives, and develop a strategy plan to give advice and to make recommendations to the City Council on the *Dune Protection, Beach Renourishment and Access Plan* and for the renourishment of the beach within the City.

B. The City of South Padre Island shall endeavor to protect the dune system and the foredune line within the corporate municipal limits of the City. The foredunes offer protection and provide a buffer against storms, and will keep sand in the beach dune system.

(1) The City, when considering any Beach and Dune Protection Permit, shall strive to avoid any damage and destruction to dunes, and in particular the foredunes and the foredunes ridge to the maximum extent practical. The foredunes and the foredune ridge are the primary focus of protection; however, they depend on the backdunes for preservation. The backdunes upon which the foredunes and the foredune ridge depend shall be protected by the same standard that protects the foredunes and foredune ridge. Therefore, damage and destruction to backdunes that actively exchange sand with and extend vegetation to foredunes and the foredune ridge shall be avoided to the maximum extent practicable.

(2) Every dune in the beach/dune system is linked to and dependent upon the other dunes for survival. Therefore, the backdunes that do not directly protect and preserve foredunes and the foredune ridge shall be protected to the maximum extent practicable.

(3) Hurricane storm surge is the most destructive element on the Texas coast. As this is particularly true for South Padre Island, where elevations are low and continuous dunes are lacking, it is recognized and established that the primary focus is to protect the foredune area and the foredune ridge. At the same time, protection of all dunes East of the Dune Protection Line will continue.

C. The City of South Padre Island recognizes the importance of beach renourishment to stabilize and protect the public beach. The significance of tourism and its contribution to the economy reinforce the necessity to renourish our most precious resource--the beach. The City of South Padre Island shall provide for the renourishment of our beach and appropriate the resources necessary to accomplish this project. The City of South Padre Island shall develop a dune system in front of all properties to offer a protection from severe storm and beach erosion.

D. The City of South Padre Island will not abandon, relinquish or convey any right, title, easement, right-of-way, street, path or other interest that provides existing or potential beach access, unless an alternative equivalent or better beach access is first provided consistent with the City's *Dune Protection, Beach Renourishment and Access Plan*.

E. The City of South Padre Island does hereby adopt an Erosion Response Plan, to explore means and methods to reduce the public expenditures due to damage to property and infrastructure that can result from shoreline change, erosion, and storm conditions. The plan is filed with the City Secretary or is located on the City's website. (ord 12-09)

Sec. 22-3. SHORELINE TASK FORCE-APPOINTMENT

The City Council may appoint seven (7) individuals to serve on the Shoreline Task Force. The appointment of individuals shall be for two (2) year terms, such terms to be staggered, and all terms shall expire on September 30 of the year said members term is scheduled to expire or until their successor is appointed. The Task Force shall elect one of the members as Chairperson, and the Chairperson may not make or second motions and may only vote to break a tie vote and if the Chairperson is absent the members shall appoint a temporary Chairperson to preside at the meeting. The City Council may remove any appointee to the Beach and Dune Task Force at anytime. The initial members appointed by the City Council shall have three (3) members appointed for a one (1) year term and four (4) members appointed for a two (2) year term, and thereafter all appointments will be for a two year term.

Sec. 22-3.1 MEETINGS.

The Shoreline Task Force shall conduct all its meetings in a public setting and shall follow all of the procedures required by the Open Meetings Act in the conduct of all its business.

Sec. 22-3.2 GUIDELINES.

The Shoreline Task Force has adopted general guidelines as stated within this plan for the construction of a continuous dune line based upon a 1993 study conducted by Robert A. Morton: *Beach and Dune Conditions at South Padre Island, Texas; Assessment and Recommendations*

(Bureau of Economic Geology, The University of Texas at Austin). Additional specifications and/or guidelines for the preservation and enhancement of dunes shall be consistent with the above 1993 study as well as *Dune Protection and Improvement Manual for the Texas Gulf Coast* (as published and amended by the General Land Office).

Sec. 22-4. DUNE PROTECTION LINE

A. The City Council does hereby establish a Dune Protection Line. Such line shall be the East right-of-way line of Gulf Boulevard and a line extended therefrom to the North property line of Lot 20 of Padre Beach Estates and to the south boundaries of the City's Corporate Limits, or 1000 feet from Mean High Tide whichever is lesser. In the area of The SHORES Subdivision, the Dune Protection Line is designated as the east right-of-way of Texas State Park Road 100 or 1000 feet from Mean High Tide, whichever is lesser. The Dune Protection Line is applicable to all areas within the corporate municipal limits of the City and no area seaward of the Dune Protection Line within the City is exempt from this Chapter.

B. A portion of the Dune Protection Line is also depicted on the Historic Building Line Map dated March 1981, which Map is also the same Map furnished to the City by the Office of the Texas Attorney General and is on file with the Public Works Department of the City of South Padre Island, Texas. The map shows the East Right-of-Way line of Gulf Boulevard as that line is extended to both the North and South boundaries of the City. The East Right-of-Way line of Gulf Boulevard is tied to specific monuments on Gulf Boulevard and the existing monuments are referenced to the Texas State Plan Coordinate System.

C. The Dune Protection Line is a "moving" line changing with shoreline changes, and subject to modification. The Dune Protection Line shall be reviewed at least every five (5) years to determine if the line is adequately located to achieve the purpose of preserving critical dune areas. In addition to the five-year review, the City will review the adequacy of the Line within Ninety (90) days after a Tropical Storm or hurricane affects the beach within the City limits.

Sec. 22-5. FOREDUNE LINE.

The City of South Padre Island shall endeavor to enhance and/or establish a foredune line within the corporate municipal limits of the City. Such line will offer protection and be used as a buffer against storms and will keep sand in the beach/dune system.

Sec. 22-6. CITY PERMIT EXEMPTIONS.

The activity of the City shall at all times be consistent with the City's mission of preserving and enhancing the beach and public beach accesses located within the City of South Padre Island. In order to promptly and adequately address the needs of the public, the City of South Padre Island will not be required to obtain a permit for the following activities:

A. Cleaning and grooming of the beaches within the City that does not damage dunes and/or dune vegetation.

B. City designated public beach access dune walkover construction, clearing and maintenance activities.

C. City-sponsored beach renourishment projects.

D. City-sponsored dune ridge construction projects that solely involve bringing in more beach quality sand for dune ridge construction and/or the planting of indigenous dune vegetation neither activity of which adversely impact existing dunes or dune vegetation, or the public's access to or use of the beach.

E. The use of City vehicles (police, public works or emergency vehicles) on the Beach.

Sec. 22-7. PERMITS AND APPROVALS REQUIRED.

A. An applicable permit is required for all construction, maintenance, dune management activities and/or retaining wall / walkway maintenance East of the Dune Protection Line. A permit must be obtained from the City prior to any activity. Failure to acquire a permit prior to any construction activity East of the Dune Protection Line is subject to penalty as is or may be provided in this or any other ordinance of the City. Such penalty for failure to acquire a permit when necessary can result in a fine, removal, restoration, and/or remediation orders.

B. Permits issued pursuant to this Chapter shall be accompanied by a permit fee established by the City Council. The City Council may establish and/or modify fees for the issuance of any permits mentioned within this Chapter 22 by resolution.

Sec. 22-8 CITY MANAGER OR DESIGNEE AUTHORIZED PERMITS.

A. The following permits under this Sec. 22-8 may be authorized directly by the City Manager or designee and are not required to be reviewed or approved by the Beach and Dune Task Force, the General Land Office, or the Office of the Attorney General. The City Manager or designee may authorize permits under this Section 22-8 only if the proposed activity will not:

- (1) increase or alter the footprint of an existing structure;
- (2) increase the impervious surface on the property;
- (3) adversely affect dunes or dune vegetation; and /or
- (4) obstruct the public's access to or use of the beach.

B. The City Manager or Designee may request whatever information as may be necessary to determine the extent and nature of the activities prior to approving such activity. Such information must include the name of the property owner and/or the owner's representative. An on-site inspection with the owner, owner's representative or the individual who will be responsible for undertaking the proposed activities of the permit may be requested by the City Manager or Designee.

C. The City Manager or Designee will determine the expiration date of the permit depending on the nature of the activity, but under no circumstance will the permit be applicable for greater than six (6) months from the original date of permit approval.

D. In the event that the City Manager or Designee denies an applicant's request, the applicant may appeal the decision to the Beach and Dune Task Force. In so doing, the applicant will need to submit to City staff a copy of all information necessary to completely understand the nature of

the situation for submission to the Task Force. The Task Force can then make a recommendation that will be forwarded to the City Council for final review and approval.

Sec. 22-8.1 BEACH SPECIAL EVENTS PERMITTING.

The City must approve all beach special events activities prior to the commencement of such activities. The City Council or the City Manager may designate a Special Events period [length of time] and permits may be granted during such period for setting up temporary outdoor facilities both on beachfront properties and seaward of the City's Historic Building Line established by the Attorney General of Texas. A Beach Special Events Permit is only valid for the specific Special Events period [length of time] and not for any other Special Events period. Each Special Events period requires a separate permit. These permits shall be granted with special conditions and requirements as the City Manager or his designee may believe is necessary to preserve the public beaches and the general health and safety of the users thereof. A copy of the permit issued by the City will be forwarded to the General Land Office and the Office of the Attorney General for their files no later than five (5) days from the date the City issued the permit. Any person desiring to set up any type of temporary facility during the Special Event period on the beach shall comply with the following:

- A. No facility or manufacture may be set up in a manner to destroy dunes and/or vegetation.
- B. No outdoor facility or manufacture may be set up that will impair public access to the beach or use of the public beach.
- C. Any applicant obtaining Special Event permit will provide whatever sanitary facilities that the City believes are reasonably necessary as a result of the number of people being attracted to the Special Event Activities.
- D. The permit will specifically describe the facilities being set up and what will be left in place overnight and shall comply with all requirements of the Building Department that pertain to safe installations. Any application for permit must either be signed by the beachfront property owner or have a letter of consent from the beachfront property owner for the applicant seeking the permit.
- E. No sales of any nature may take place on the beach (seaward of the Historic Building Line).

Sec. 22-8.2 RETAINING WALL / WALK WAY MAINTENANCE.

All retaining wall/walkway maintenance activities must be approved by the City prior to undertaking such maintenance activities.

- A. The City Manager or Designee may require modifications to the retaining wall/walkway maintenance activities to ensure that such activities do constitute property maintenance activities and do not damage dunes and/or dune vegetation.

B. If the City Manager or Designee issues a permit for retaining wall/walkway maintenance activities, any and all sand that will be moved and/or removed from the designated walkways and/or retaining walls must be used to establish and/or enhance the foredune line. The City Manager or Designee will work with the owner, owner's representative and/or permittee to determine the placement of the sand.

Sec. 22-8.3 VEHICLE ACCESS.

The City of South Padre Island prohibits vehicular access to the public beaches, except for public safety, emergency vehicles, beach maintenance equipment, and permitted vehicles. The City Manager or Designee may permit vehicle access to the beach in coordination with permitted construction and/or property maintenance activities; however, a separate vehicle access permit and fee will be required.

Sec. 22-8.4 PROPERTY MAINTENANCE.

The City must approve all property maintenance activities East of the Dune Protection line prior to undertaking such activities. If the City Manager or Designee determines that the activity conforms to the requirements as set forth in Section 22-8 above, then the City Manager or Designee may issue a permit for the property maintenance activities. The City Manager or Designee may require modifications to the property maintenance activities to ensure that such activities conform to the requirements.

Sec. 22-9 CITY SPONSORED DUNE RIDGE CONSTRUCTION PERMITS.

A. The City endorses the concept of City-sponsored activities to alter existing dune shape and size where a complete dune ridge construction plan has been reviewed and approved by the City. In the event that a specific property owner wishes to alter dunes seaward of their retaining wall, that property owner may present a plan to City staff that includes the pertinent items and information as necessary to completely understand and review the application. Once complete, staff will forward the plan to the Beach and Dune Task Force, who will in turn provide a recommendation to the City Council for review and consideration. The City Council will determine if the City wishes to approve and sponsor such activity.

B. The City may approve and/or sponsor dune ridge construction activities only if it finds as a fact, after a full investigation, that the particular project as proposed, meets the criteria below. Failure to meet any one of these criteria will result in a finding of material weakening or material damage and the City shall not approve the application for the dune ridge construction activity as proposed.

- (1) the height of the existing dune(s) is/are greater than fifteen feet (15') above sea level;
- (2) an affirmative demonstration can be made that substantial dunes would likely form naturally in the area of the proposed dune ridge construction project;

- (3) the project demonstrates equal or better protection with the proposed dune ridge construction plan;
- (4) the adjacent littoral property owner(s) provide written consent for the proposed dune ridge construction project;
- (5) the adjacent littoral property is in compliance with previously issued and approved Beach and Dune permits;
- (6) the City shall ensure that all sand seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) remains in the beach/dune system;
- (7) the height of the altered dunes seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) can be no lower than ten feet (10') above sea level;
- (8) the altered dune(s) must be vegetated with indigenous dune vegetation and watered to stabilize the dune(s); and
- (9) the project shall not restrict or interfere with the public's access to the beach or use of the beach at normal high tide.

C. If the City Council approve and sponsor such activity, the City will forward the plan, with appropriate and pertinent information and the expected time frame from beginning of the project to completion, to the General Land Office and the Office of the Attorney General for their review and approval. These state agencies shall have fifteen (15) working days from receipt of the proposed dune ridge construction application to review, and provide comments to the City.

Sec. 22-10 BEACH & DUNE PROTECTION PERMITS

For all other construction activities East of the Dune Protection Line, or any activity that impacts dunes and/or dune vegetation within the Dune Protection area not already addressed by the permits mentioned in the preceding Sections, an application for a Beach and Dune Protection permit will be required.

A. Staff will review any submitted application within a minimum of ten (10) working days to determine its completeness. A Beach and Dune application shall contain the items and information set forth in 31 TAC §15.3(s)(4). [18 Tex Reg. 661, starting at 696]

B. If the Beach and Dune application is determined to be complete, the staff shall forward the application and the development plan to the General Land Office and the Attorney General no less than ten (10) working days prior to acting on the development plan. The General Land office and the Attorney General may submit comments on the proposed construction to the City of South Padre Island.

C. After reviewing the application for completeness, the City Manager or Designee shall forward the application to the Shoreline Task Force. The Task Force shall review the application and make recommendations to the City Council on all Beach and Dune Protection Permit requests. The Task Force shall have up to six (6) weeks to review permit applications and forward a recommendation to the City Council. The City Council shall grant or deny a permit within four (4) weeks of receiving a recommendation from the Task Force. The City Council may make modifications to and/or overturn a recommendation of the Task Force with a majority vote of the City Council.

D. The City may approve a permit application only if it finds as a fact, after a full investigation that the particular conduct proposed will not materially weaken any dune or materially damage dune vegetation or reduce the effectiveness of any dune as a means of protection against erosion and high wind and water. In making the finding as to whether such material weakening or material damage will occur, the City shall use the following technical standards. Failure to meet any one of these standards which is not adequately mitigated as provided for herein will result in a finding of material weakening or material damage and the City shall not approve the application for the construction as proposed.

- (1) The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property.
- (2) The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site.
- (3) The activity shall not result in significant changes to dune hydrology.
- (4) The activity shall not disturb unique flora or fauna or result in adverse effects on dune complexes or dune vegetation.
- (5) The activity shall not significantly increase the potential for washovers or blowouts to occur.

E. The City shall consider the following items and information when determining whether to grant a permit:

- (1) All comments submitted to the City by the General Land Office and the Office of the Attorney General;
- (2) Cumulative and indirect effects of the proposed construction on all dunes and dune vegetation within critical dune areas or seaward of a dune protection line;
- (3) Cumulative and indirect effects of other activities on dunes and dune vegetation located on the proposed construction site;

- (4) The pre-construction type, height, width, slope, volume, and continuity of the dunes, the pre-construction condition of the dunes, the type of dune vegetation, and percent of vegetation cover on the site;
- (5) The local historic erosion rate as determined by the University of Texas at Austin, Bureau of Economic Geology, and whether the proposed construction may alter dunes and dune vegetation in a manner that may aggravate erosion;
- (6) The applicant's mitigation plan for any unavoidable adverse effects on dunes and dune vegetation and the effectiveness, feasibility, and desirability of any proposed dune reconstruction and revegetation;
- (7) The impacts on the natural drainage patterns of the site and adjacent property;
- (8) Any significant environmental features of the potentially affected dunes and dune vegetation such as their value and function as floral or fauna habitat or any other benefits the dune and dune vegetation provide to other natural resources;
- (9) Wind and storm patterns including a history of washover patterns;
- (10) Location of the site on the flood insurance rate map;
- (11) Success rates of dune stabilization projects in the area.
- (12) Mitigation: The City shall strive to balance the objective of dune protection and preservation while recognizing a property owner's right to reasonable development of private property. The permit application review process shall consider mitigation proposals or options to reduce the disturbance and/or loss of dune(s) if the property owner/applicant can demonstrate that all reasonable efforts to avoid the disturbance and/or loss of dune(s) are impractical. It is recognized and established that the primary focus of dune protection is to protect the foredune area while at the same time desiring to afford reasonable protection of all dunes East of the Dune Protection Line. The mitigation sequence shall be used as a decision-making basis for granting Beach and Dune Protection Permits. Mitigation is an acceptable method to insure the continued stability of the beach. It does allow for the construction of hard structures and surfaces within the permitted area so long as at no time will the structures come in routine contact with wave action. The removal of sand from permitted areas adjacent to dunes and replenishing the beach system is specifically provided for and encouraged. If a sand dune on a lot needs to be moved or leveled for construction, it must be moved and re-constructed East of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall). The mitigation sequence consists of the following steps:
 - a. Avoid damage to dunes, including man-made alteration of dunes or the beach profile, removal or destruction of vegetation, and removal of sand

from the dunes. Permits allowing damage to dunes shall only be issued where there is no practicable alternative to the proposed activity, proposed site, or proposed methods for conducting the activity.

- b. Minimize damage to dunes. If an application for a Beach and Dune Protection permit or beachfront construction certification proves to the city that damage to dunes and/or dune vegetation is unavoidable, a permit allowing the unavoidable damage may be issued provided that there is a permit condition requiring that the damage shall be minimized to the greatest extent practicable.
- c. Compensate for all damage to dunes. Unavoidable damage to dunes and dune vegetation shall be compensated for by the creation of new dunes, the enhancement of existing dunes, and/or the repair of the damaged dunes as well as the planting of indigenous vegetation. The new, enhanced, and/or repaired dunes shall strive to be superior or equal to the damaged dunes in their ability to protect the community from potential flood damage, to support indigenous flora and fauna, and to protect the adjacent beach from erosion. The creation of new dunes as described by Dr. Morton in front of hard structures shall be 10 feet to 12 feet (above sea level) and 75 feet to 100 feet in width or consistent with a plan approved by the City of South Padre Island. A property owner may be authorized to use plants other than native plants to enhance the stability of newly created dunes.
- d. Compensation efforts shall be continuous and concurrent with the construction until the new, enhanced and/or repaired dunes and dune vegetation is equal or superior to the damaged dune and dune vegetation. However, in no event shall the compensation process take more than two years. After two years, the permittee shall be liable for penalties if compensation is incomplete, unless natural causes have prevented the same.

F. Unless otherwise specified within the permit and approved by the City Council, Beach and Dune Protection Permits expire after two (2) years, at which time the applicant will need to reapply if the activity has not been completed.

Sec. 22-10.1 BEACH & DUNE PROTECTION PERMITTING PROCESS.

Any applicant for a Beach and Dune Protection Permit shall be subject to the following review requirements to determine if said activities affect adversely public access to and use of the public beach, and no permit shall be issued unless all of the review requirements have been met;

A. The City shall review the proposed development plan and the General Land Office's comments and the Attorney General's comments or other information it considers useful to determine consistency with the Beach Access and Use Plan.

B. Any development of property seaward of the Dune Protection line, including but not limited to areas adjoining a designated beach access area, must demonstrate that such development shall not interfere with and/or diminish public beach access, public beach use and/or public parking.

C. If the proposed construction is recommended to be permitted by the City of South Padre Island, the application shall also be reviewed for the compliance with the Beach Access and Use Plan and if the proposed activity will affect adversely public access to and use of the public beach.

D. The City of South Padre Island, after considering all appropriate information, shall make the determination and shall certify that the construction as proposed either is consistent or inconsistent with the Beach Access and Use Plan, in which case the City of South Padre Island must specify how the construction is inconsistent with the Plan or how it will affect adversely public access to, and use of, the public beach.

E. The City of South Padre Island may include in the permit any reasonable terms and conditions it finds necessary to assure adequate public beach access and use rights consistent with Chapter 61 of the Texas Natural Resources Code. If the proposed activity will impair existing beach access, then the applicant must provide equivalent or better access.

F. There shall be no construction or erection of a permanent structure seaward (East) of the Historic Building Line as depicted on the Map on file with the Public Works Department of the City of South Padre Island, except for that area designated in the survey labeled "Exhibit B" for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X.

Sec. 22-11. COMPLIANCE WITH OTHER LAWS.

A. Permits may not be issued if the proposed activity is determined to be in violation of Chapters 61 and/or 63 of the Natural Resources Code or any other state, local and federal laws related to the requirements of the Dune Protection Act and Open Beaches Act.

B. Permits may not be issued if the proposed activity is determined to be in violation of the GLO beach access/dune protection rules (31 TAC §§15.1 - 15.10), except as may be authorized by the Comprehensive Beach Management Plan of the City provided for in this Chapter.

C. A violation of any law(s) related to the requirements of the Dune Protection Act and Open Beaches Act is a violation of this Chapter.

Sec. 22-12. ADMINISTRATIVE RECORD.

A. The City shall compile and maintain an administrative record which demonstrates the basis for each final decision made regarding the issuance of permits pursuant to this Chapter. The administrative record shall include copies of the following:

- (1) All materials the City received from the applicant as part of or regarding the permit application.
- (2) The transcripts, if any, or the minutes and/or tape of the City's meeting(s) during which a final decision regarding the permit was made; and

- (3) All comments received by the City regarding the permit, if any.

B. The City shall keep the administrative record for a minimum of three years from the date of a final decision on a permit. The City shall send to the General Land Office or the Office of the Attorney General, upon request by either agency, a copy of those portions of the administrative record that were not originally sent to those agencies for permit application review and comment. The record must be received by the appropriate agency no later than 10 working days after the City receives the request. The state agency reviewing the administrative record shall notify the appropriate permittee of the request for a copy of the administrative record from the City. Upon request of the permittee, the City shall provide to the permittee copies of any materials in the administrative record regarding the permit that were not submitted to the City by the permittee (i.e. the permit application) or given to the permittee by the City (i.e. the permit).

Sec. 22-13. BUILDING PERMIT REQUIRED.

If a permit is granted pursuant to this Chapter, the applicant must also obtain a Building permit from the City of South Padre Island for the proposed activity subject to compliance with all other ordinances and codes of the City, including, but not limited to the Master Flood Hazard Prevention Ordinance.

Sec. 22-14. VOIDABLE PERMITS.

Any permit issued by the City under this Chapter shall be voidable under the following circumstances:

A. The permit is inconsistent with this Chapter or with State law at the time the Permit was issued.

B. A material change occurs after the permit is issued.

C. A permittee fails to disclose any material fact in the application.

D. The City shall require that a permittee apply for a new permit in the event of any material changes. Material changes include human or natural conditions that have adversely affected dunes, dune vegetation, or beach access and use that either:

(1) did not exist at the time the permittee prepared the original permit application; or

(2) were not considered by the City making the permitting decision because the permittee failed to provide information regarding the site condition in the original application for a permit.

E. A permit automatically terminates in the event the construction comes to lie within the boundaries of the public beach by artificial means or by action of storm, wind, water, or other naturally influenced causes. Nothing in the permit shall be construed to authorize the

construction, repair, or maintenance of any construction within the boundaries of the public beach at any time.

Sec. 22-15. BEACH ACCESS AND USE PLAN.

A. The City of South Padre Island shall utilize all dedicated street right-of-ways abutting the Gulf of Mexico for public beach access. The City shall endeavor to enhance public beach access through the utilization of twenty-four (24) street cul-de-sacs along the City beaches, and through the dedication of private land and/or the acquisition of private land for purposes of providing public beach access. The City Council may provide through the course of budgeting the City's financial resources, funds to improve and/or enhance public beach access points or public recreational facilities. The City may build or require dune walkovers for beach access whenever practicable.

B. The City's Beach Access plan is contained in the City's comprehensive beach management plan: *The City of South Padre Island's Dune Protection, Beach Access, and Beach Renourishment Plan.*

Sec. 22-15.1 SIGNAGE.

The City of South Padre Island shall provide beach access signs and will adopt uniform signage requirements as may be required by any State or Federal regulations.

Sec. 22-16. APPEAL FROM DECISION OF THE CITY COUNCIL

Any person aggrieved by a decision of the City Council may present to any District Court in Cameron County, Texas a duly verified petition, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court no later than the 20th day after the day on which the Board renders the decision.

Sec. 22-17. ACTS PROHIBITED.

It shall be unlawful for any person to do any of the following acts:

A. To undertake any construction activity East of the Dune Protection Line without a Beach & Dune Permit.

B. To undertake any Retaining wall / Walkway maintenance activities without a permit.

C. To violate conditions of any permit issued under this ordinance.

D. To remove sand from the Beach system within the City located East of the Dune Protection line.

E. To remove sand, dirt or earthen materials from the City limits unless the same is contaminated.

F. The construction of seawalls.

G. To violate any other provisions of this ordinance.

Sec. 22-18. PENALTIES

Any person convicted of a violation of any provision of this Chapter shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00) as provided by Sec. 21-1 of Chapter 21 of the Code of Ordinances and each day that the violation continues shall be a separate violation.

Sec. 22-19. APPROVAL.

Pursuant to 31 TAC §15.3(o) of the General Land Office Beach/Dune Rules, which allows local governments to amend their Beach/Dune Plan in a manner consistent with the requirements of the Open Beaches Act, Dune Protection Act, and 31 TAC §§15.1-15.10 of the beach/dune rules, the City of South Padre Island formally submits this amended and revised ***Dune Protection, Beach Access, and Beach Renourishment Plan*** with attached revised local implementing provisions for review and approval.

The prior Comprehensive Beach Management Plan that addressed dune protection, beach access and beach nourishment, and which the City City Council adopted by Ordinance No.161C, dated September 1994, is hereby replaced and superceded by this *Dune Protection, Beach Renourishment, and Access Plan* dated May 7, 2003 and is hereby approved and incorporated herein for all purposes.

The City has submitted this Ordinance as amended (Chapter 22 of the Code of Ordinances of the City of South Padre Island) to the General Land Office and the Office of the Attorney General pursuant to Chapters 61 and 63 of the Natural Resources Code and rules enacted pursuant thereto.

Chapter 23

SUBDIVISION REGULATIONS

ARTICLE 1

SHORT TITLE, PURPOSE, AND LEGAL PROVISIONS

Short Title: This Chapter 23 of the Code of Ordinances shall be known and may be cited as the "Subdivision Regulations of the City of South Padre Island, Texas," and may be referred to hereinafter as "these subdivision regulations" or "these regulations." (Ordinance NO. 01-01, adopted January 2001)

Section

- 23.01 Authority
- 23.02 Purpose
- 23.03 Jurisdiction
- 23.04 Definitions
- 23.05 Policies and special provisions
- 23.06 Variances
- 23.07 Preliminary conference
- 23.08 Preserving Public Beach Use and Access
- 23.09 Preliminary plat and accompanying data
- 23.10 Fast Track Process
- 23.11 Engineering Plan Requirements
- 23.12 Record plat
- 23.13 Design Standards
- 23.14 Standards and specifications for the installation of improvements
- 23.15 Performance Guarantee
- 23.16 Authority of the Public Works Director
- 23.17 Conflict with other ordinances
- 23.18 Saving Provision
- 23.19 - 23.98 Reserved
- 23.99 Penalty

SUBDIVISION REGULATIONS

Sec. 23.01 Authority. This chapter is adopted under the authority of the constitution and laws of the State of Texas, including , but not limited to, Chapter 212 and Chapter 43 of the Texas Local Government Code, as amended.

Sec. 23.02 Purpose. The purpose of this chapter is to provide for the orderly, safe and healthful development of the area within the City and its Extraterritorial Jurisdiction and to promote the health, safety, morals and general welfare of the community.

Sec. 23.03 Jurisdiction. These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the municipal boundaries of the City of South Padre Island, Texas, and its Extraterritorial Jurisdiction, as now or hereafter established. Therefore, every subdivision of land within the City of South Padre Island and its Extraterritorial Jurisdiction shall be upon a plat and submitted to the Planning and Zoning Commission for their approval or disapproval as respectively required by this Ordinance.

Sec. 23.04 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Those definitions not expressly defined herein are to be construed in accordance with the definitions in the Zoning Code for the City of South Padre Island, or other applicable ordinances of the City, or in the absence of such definitions, then in accordance with customary usage in municipal planning and engineering practices.

ALLEY. A narrow, paved, public or private way primarily designed to provide a secondary means of vehicular and/or pedestrian access to the side or rear of any property whose principal frontage is on a street. An alley shall have a lower engineering design standard than a street.

ACCESS DRIVE. A private way located within an access easement that affords the principal means of vehicular access to abutting property. An access drive shall: 1) connect to an existing public street or highway; 2) not exceed 150 ft in length; 3) serve five (5) lots or less; **and** 4) not be extended. The abutting lots shall be located on only one side of the access drive. Access drives are exempt from the requirement of cul-de-sac turnarounds and the standard of design for the vehicular passageway(s) shall have similar construction standards as alleys or driveways. Use of the term Access Drive will be prohibited when a submission does not first comply with the four restrictions stated above.

ACCESS EASEMENT. Authorization granted by a property owner for the use by another to use a designated area of the property for vehicular passage.

COMMISSION. The Planning and Zoning Commission of the City of South Padre Island, Texas.

CUL-DE-SAC. A street having but one outlet to another street and terminated on the opposite end by a vehicular turnaround.

DEAD-END STREET. A street, other than a cul-de-sac, with only one outlet.

EASEMENT. Authorization granted by the property owner for the use by another of any designated part of his property for a clearly specified purpose.

ENGINEER. A person duly authorized under the provisions of the Texas Engineering Registration Act, as amended, to practice the profession of engineering.

EXTRATERRITORIAL JURISDICTION (ETJ). That area surrounding the City limits and extending there from as defined by the Texas Local Government Code Sec. 212.001, as amended.

FILING DATE. The date which the Public Works Department determines that they have received all correct and required information, plats, and fees to process the plat application or the date after the expiration of the time period for notice to third parties as required by state law, whichever is greater. Public Works Staff shall have ten (10) calendar days from receipt of the application to determine if the plat application is complete.

INFRASTRUCTURE. The basic facilities, services, and installations necessary in a community, such as sewers, water systems, utilities, drainage systems, streets, and sidewalks.

LOT. A tract, plot, parcel, or portion of a subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

MAY. A word denoting action that is discretionary.

NET AREA. The area of a lot excluding all easements greater than 15 feet in width, dedications and rights-of-way; except for private developments, which may include the areas of the access easements within the calculations for the net lot area.

PERSON. Any individual, agency, corporation, partnership, unincorporated association of persons, organization, trust or trustee, receiver, assignee, administrator, executor, guardian, firm, joint stock association, company or body politic.

RIGHT-OF-WAY. A strip of land intended to be occupied by a street, pedestrian way, crosswalk, utilities, landscaping, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that the right-of-way hereafter established and shown on a record plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-ways intended for any use involving maintenance by a public or quasi-public agency shall be dedicated by the subdivider on whose plat such right-of-way is established.

RESUBDIVISION (REPLAT). A change in a map of an approved and recorded subdivision plat, or any map or plan legally recorded prior to the effective date of these regulations.

SHALL. A word denoting action that is always mandatory.

STREET. A general term denoting a public or private way that affords the principal means of vehicular access to abutting property.

SUBDIVIDER. Any person who (1), has a proprietary interest in land, and causes it, directly or indirectly, to be divided into a subdivision; or who (2), directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision; or who (3), engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot, parcel, site, unit, or plat in a subdivision; and who (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

SUBDIVISION. The assembly of lots, parcels, sites, units, plats, or interests or the division of a single parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions. "Subdivision" includes the division, assembly, or development of land for both residential and non-residential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. "Subdivision" includes the act of re-subdivision as defined herein.

SURVEYOR. A licensed state land surveyor or a registered professional land surveyor, as authorized by state law to practice the profession of surveying.

CITY. The City of South Padre Island, Texas.

UTILITIES. Installations for transmission of water, sewage, electricity, telecommunications, cable television, storm water, and similar facilities providing service to and used by the public.

UTILITY EASEMENT. Authorization granted by a property owner to use a designated area of the property for the purpose of installation, improvement, and maintenance of utilities.

Sec. 23.05 Policies And Special Provisions.

(A) *Approval.* The Planning and Zoning Commission shall approve all plats within the City and the City's extraterritorial jurisdiction.

(B) *Permitting.* The City shall not issue building, repair, plumbing or electrical permits for any structure on a lot in a subdivision until a record plat has been approved by the City and filed for record; provided, however, that this provision shall not prevent a subdivider from installing infrastructure in accordance with plans and specifications approved by the Director of Public Works on the subject property of an approved preliminary plat.

(C) *Enforcement.* On behalf of the City, the City Attorney may institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter or the standards referred to herein with respect to any violation thereof which occurs within the City and within the extraterritorial jurisdiction of the City.

(D) *Postponement.* At any point during the platting process, for both preliminary and record plats, the applicant may voluntarily postpone further action on the application by the City by submitting a request for postponement, in writing, addressed to the City Planner. The postponement request should specifically identify the time period for which the postponement is requested, but may not exceed six (6) months. If the applicant fails to present a plat to the City

for review and approval by the date stated in the postponement letter, the plat will be automatically considered withdrawn. The filing of a request for a postponement constitutes an agreement by the owner and the applicant, their successors and assigns, that the statutory time period within which the City must act shall become null and void.

(E) Appeal Process. Any person aggrieved by the decision of the Planning and Zoning Commission in granting approval or disapproval of a record plat may appeal such decision to the City Council, requesting a determination by that body. A "Notice of Appeal" must be filed in the Office of the City Secretary within ten (10) calendar days following the decision of plat approval or denial. The appeal shall specifically state how the application, as filed or subsequently modified, meets, or fails to meet, the applicable criteria set forth in these regulations. No appeals will be accepted after the tenth calendar day following the decision of plat approval or denial. However, if an appeal is submitted, the aggrieved party shall be placed on the agenda for the next regular meeting of the City Council for a final decision.

Sec. 23.06 Variances.

(A) General: Where unnecessary hardships may result from strict compliance with these regulations, and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, the City Council may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured.

(B) Conditions: In approving variances, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of these regulations.

(C) Procedure: A petition for any such variance shall be submitted in writing by the subdivider at the time the preliminary plat is filed for consideration by the City Planner or Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Sec. 23.07 Preliminary Conference. Prior to the official filing of a preliminary plat, the subdivider, and/or the subdivider's representative should consult with and present a proposed plan of subdivision to the City Planner for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land.

Sec. 23.08 Preserving Public Beach Use and Access.

- (1) No plat or re-plat will be approved that does not preserve or enhance existing public right to use and have access to and from the beach. [**Authority:** 31 TAC, §15.7]
- (2) The City of South Padre Island shall presume that any beach fronting the Gulf of Mexico within its jurisdiction and within its ETJ is a public beach as defined by Chapter 61 of the Texas Natural Resources Code.
- (3) The City of South Padre Island shall regulate pedestrian and vehicular access, traffic and parking on the public beach in a manner that is consistent with 31 TAC, §15.7(h) (which reads as follows):

(h) Preservation and enhancement of public beach use and access. A local government shall regulate pedestrian or vehicular beach access, traffic, and parking on the beach only in a manner that preserves or enhances existing public right to use and have access to and from the beach. A local government shall not impair or close an existing access point or close a public beach to pedestrian or vehicular traffic without prior approval from the General Land Office.

(1) For the purposes of this subchapter, beach access and use is presumed to be preserved if the following criteria are met.

(A) Parking on or adjacent to the beach is adequate to accommodate one car for each 15 linear feet of beach.

(B) Where vehicles are prohibited from driving on and along the beach, ingress/egress access ways are no farther apart than 1/2 mile.

(C) Signs are conspicuously posted which explain the nature and extent of vehicular controls, parking areas, and access points. Local governments may establish their own beach access and use standards for General Land Office approval and certification based upon the General Land Office's affirmative finding that such standards preserve and enhance the public's right to use and access the public beach.

Sec. 23.09 Preliminary Plat And Accompanying Data.

(A) Generally. The subdivider shall cause preliminary plats to be prepared by a surveyor in accordance with this chapter.

(B) Time for filing and copies required. The subdivider shall file ten (10) complete blue- or black-line copies of the plat to the Planning Department at least 15 working days prior to the regularly scheduled meeting date of the Planning and Zoning Commission.

(C) Formal Application. A complete plat application shall consist of:

- (1) A completed application form.*
- (2) The appropriate filing fee per plat. This fee is non-refundable.*
- (3) A current title letter (written by a Title Company or an attorney licensed to practice in the State of Texas) or title insurance policy, both or either of which must be dated no more than sixty (60) calendar days from the application date and must detail the ownership, legal description, any and all liens, and all easements on the property.*
- (4) If the applicant is other than the record owner of the property depicted on the plat, a power of attorney or other satisfactory evidence of the applicant's authority to make such application on behalf of or with the permission of the record owner.*
- (5) Separate Survey of Existing Conditions. In the event that the subject property has any existing structures, the plat shall be accompanied by three (3) copies of a survey of the property, separate and distinct from the submitted plat. This survey is for staff review and will not be recorded. The survey shall be drawn to a scale*

of 100 feet to 1 inch or other appropriate scale; signed and sealed by the land surveyor; and show the existing conditions as follows:

- (a) The exact locations, dimensions, area(s) of the lot(s), names and dimensions of all existing or recorded streets, alleys, easements or other public rights-of-way within the subdivision, and/or intersecting or contiguous with its boundaries.
 - (b) The exact locations of existing submerged areas, water-courses, and drainage structures within the boundaries of the subdivision.
 - (c) Locations and dimensions of existing buildings and structures on the site.
 - (d) F.E.M.A. flood elevation for the property, and the location of the flood zone boundary(ies) if more than one flood zone impacts the subject property.
 - (e) Locations of building setback lines.
- (6) Preliminary Plat form and content. The preliminary plat shall be drawn to a scale of 100 feet to 1 inch or other appropriate scale, and signed and sealed by the land surveyor. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:
- (a) Names and addresses of: owner(s) of record of the land to be subdivided, the subdivider(s) – if different than the owner(s), and the surveyor preparing the plat.
 - (b) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision currently located within the corporate limits or the ETJ of the City.
 - (c) Description, by metes and bounds, of the subdivision boundaries.
 - (d) Existing conditions as follows:
 - 1. The exact locations, dimensions, areas of the lot(s), names and dimensions of all existing or recorded streets, alleys, easements or other public rights-of-way within the subdivision, and/or intersecting or contiguous with its boundaries.
 - 2. The exact locations of existing water-courses within the boundaries of the subdivision.
 - (e) Proposed subdivision conditions, indicated by heavy/dark lines and printing, as follows:
 - 1. Boundary lines with distances and bearings.
 - 2. The acreage (square feet if less than an acre) of each separate and discrete lot depicted on the plat.

3. The exact locations, dimensions, descriptions and names of all proposed streets, alleys, parks, other public areas, easements or other rights-of-way, blocks, lots and other sites within the subdivision.
- (f) Date of preparation, scale of plat and north arrow.
- (g) Appropriate lot, block, and subdivision identification for each lot on the plat.
- (h) Vicinity map, at some appropriate scale, which shall locate the subject property in proximity to nearby subdivisions, and streets (with names).
- (i) All subdivision monuments and markers shall be located and described. The subdivision must be located with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part.

(D) Processing of Preliminary Plat.

- (1) The Planning Department shall check the preliminary plat as to its conformity with this ordinance, the City of South Padre Island Zoning Ordinance, as amended, and the standards and specifications set forth herein or referred to herein.
- (2) Pertinent copies of the preliminary plat data may be submitted to the Director of Public Works, and he or she shall check the same for conformity with the standards and specifications contained or referred to herein.
- (3) The Planning Department shall forward the preliminary plat to the Planning and Zoning Commission with a recommendation as to modifications, additions or alterations of such plat data.
- (4) Within 30 calendar days of the filing date of a plat application, the Planning and Zoning Commission shall approve, conditionally approve with modifications, or disapprove the preliminary plat. If the plat is denied, the Commission shall inform the subdivider, in writing, of the specific reasons for the denial. If the plat is conditionally approved with modifications, the Commission shall inform the subdivider, in writing, of any required modifications and the reasons for those modifications. The subdivider, in turn, will have up to sixty (60) calendar days to amend a conditionally approved plat and submit that plat to the Commission for its full preliminary plat approval. If the applicant fails to present the Commission a corrected plat within the sixty (60) calendar days, the plat shall be deemed to be disapproved by the Commission effective the date of the Commission's original grant of conditional approval. The effective date of a conditionally approved plat shall be that date the Commission granted full preliminary plat approval and not the date of conditional approval.
- (5) Approval of a preliminary plat by the Planning and Zoning Commission shall be deemed an expression of approval of the layout submitted on the preliminary plat,

which shall then be used as a guide for the installation of streets, water, sewer and other required improvements and utilities and for the preparation of the record plat.

- (6) Approval of a preliminary plat shall be effective for only one year. If, after one year, no development has occurred which would affect the proposed plat, the City shall revoke the preliminary approval. The Planning and Zoning Commission may, upon the application of the subdivider, extend the approval for an additional six months. If, at the end of the six-month extension, development still has not occurred that would affect the proposed plat, the City shall revoke the preliminary approval.

Sec. 23.10 Fast Track Process. Approval of the preliminary plat may be considered as approval of the record plat if neither City staff nor the Planning and Zoning Commission requires any changes in the preliminary plat as submitted and approved, and all requirements herein are included on the plat (see **Sec. 23.09** & **Sec. 23.12**). This Fast Tract Process shall not be applicable to any subdivision requiring street, access drive, and/or utility installation.

Sec. 23.11 Engineering Plan Requirements. In those instances in which street, access drive, and/or utility installation is required by these regulations or desired by the subdivider, engineering plans shall be submitted to the Director of Public Works for review and approval in accordance with the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas. Where access drives are utilized, the engineering plan requirements can be met by a letter from the subdivider stating that the access drive will meet City standards, and by a letter from the Laguna Madre Water District stating that water and sewer services will be installed to meet their standards. No work shall commence, and the Record Plat shall not be approved, until the Director of Public Works has approved the required letters and /or the engineering plans.

Sec. 23.12 Record Plat.

(A) Generally.

- (1) The subdivider shall cause a record plat to be prepared by a surveyor in accordance with this chapter.
- (2) For those subdivisions of land requiring the installation of streets, access drives, and/or utilities, the Director of Public Works' final engineering plan approval is required prior to plat approval. Also for record plat approval, the subdivider must have installed all improvements to the Director of Public Works' satisfaction, or have posted a Performance Guarantee, approved by both the Director of Public Works and the City Manager, for 110% of the estimated cost of the proposed improvements.

(B) Time for filing and copies required. The subdivider shall file ten (10) complete blue- or black-line copies of the plat to the Planning Department at least 15 working calendar days prior to the regularly scheduled meeting date of the Planning and Zoning Commission.

(C) Form and content.

- (1) The record plat and the submitted engineering plans shall conform to the preliminary plat as approved or conditionally approved by the Planning and Zoning Commission incorporating any and all changes, modifications, alterations, corrections and conditions recommended by the Planning and Zoning Commission and the Director of Public Works.
- (2) The record plat shall be submitted in an original and ten (10) copies, drawn at a scale of 100 feet to 1 inch or other appropriate scale, and shall be signed and sealed by the surveyor. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- (3) In addition to the requirements for the preliminary plat, the record plat shall also include the following:
 - (a) The exact locations, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way, blocks, lots and other sites within the subdivision with accurate dimensions, bearing or deflection angles and radii, area, central angles, degree of curvature, tangent distance and length of all curves where appropriate.
 - (b) The exact locations, dimensions, descriptions and names of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision with accurate dimensions, bearing or deflection angles and radii, area, central angles, degree of curvature, tangent distance and length of all curves where appropriate.
 - (c) The plat shall show the vacating plat, if appropriate.
 - (d) The plat must have included upon it, or must be accompanied by a document containing, the description of the water and sewer service facilities that will be constructed or installed to serve a subdivision with a statement of the date by which the facilities will be fully operable. This statement must be prepared by an engineer and must certify that the water and sewer facilities described by the plat and/or document attached to the plat are in compliance with Texas Water Code **Sec. 16.343**, as amended.
 - (e) Restrictive covenants. If the subdivider places restrictions on any of the land contained in the subdivision, such restrictions shall be printed upon the record plat to be recorded, or, if space prohibits, upon a separate document recorded in the office of the County Clerk. Reference to the restrictions shall be indicated on the subdivision plat submitted to the City for approval. A copy of such restrictions and all amendments shall be filed with the Planning Department.

- (f) The record plat shall also include the following acknowledgments. Any proposed modifications to these acknowledgments will be referred to the City Attorney for review and approval:

1. Owner's acknowledgment.

State of Texas
County of Cameron

I (we), the undersigned, owner(s) of the land shown on this plat, and designated herein as (legal description of property) within the City of South Padre Island or its ETJ, and whose name is subscribed hereto, hereby dedicate to the appropriate public or private entity for the benefit of the public or private land owners, all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose or consideration therein expressed.

Owner Date

State of Texas
County of _____

Before me, the undersigned authority, on this day personally appeared, _____ known to me to be the person whose name is subscribed to this plat, and acknowledged to me that he/she executed the same for purposes and considerations therein stated.

Given under my hand and seal of office this the _____ day of _____, 20____

Notary Public Date

County

2. Notarized lien holder's acknowledgment:

State of Texas
County of _____

I (We), the undersigned, holder(s) (or duly authorized officers of the holder(s)) of a security interest in the above described property, being the land shown on this plat and designated herein as (legal description) within the City of South Padre Island, Texas or its ETJ, do hereby consent to the subdivision of the property as provided for under the plat and do hereby provide that any foreclosure relating to the security interest on the above described property shall be subject to the platting of the property as provided for herein.

(Signature(s) of Security Interest Holder(s))

State of Texas
County of _____

Approved: _____
Name Date
Assessor and Collector of Taxes
Point Isabel Independent School District Tax Office

(D) *Processing of record plat.*

- (1) The Planning Department shall check the record plat as to its conformity with the approved preliminary plat, this ordinance, the City of South Padre Island Zoning Ordinance, as amended, and the standards and specifications set forth herein or referred to herein.
- (2) The Planning Department shall forward the record plat to the Planning and Zoning Commission with a recommendation as to modifications, additions or alterations of such plat data.
- (3) Within 30 calendar days of the filing date of a plat application, the Planning and Zoning Commission shall approve, or disapprove the record plat. If the plat is denied, the Commission shall inform the subdivider, in writing, of the specific reasons for the denial.
- (4) Appeals. Any person aggrieved by the decision of the Commission in granting approval or denial of the record plat may appeal such decision to the City Council in accordance with Section **Sec. 23.05 E**.
- (5) Period of Validity. Approval of the record plat shall be effective for a period of sixty (60) calendar days following the date of Commission approval, at the end of which time, recording of the record plat with the County Clerk's Office must have been completed. If any record plat is not filed within this time period, the record plat shall be null and void and the applicant shall be required to resubmit a new plat for approval subject to all zoning and subdivision regulations in effect at the time of resubmission. At the request of the applicant, and upon cause shown, the Planning and Zoning Commission may extend the approval of the record plat not to exceed one (1) year beyond this expiration date.
- (6) Office Copy. No building permits will be issued on or for the subject property until the applicant can provide the Public Works Department a blue or black-lined copy of the recorded plat bearing the Cameron County Clerk's signature, seal, and notation as to the plat book and page; a reproducible copy of the plat bearing the Cameron County Clerk's seal, and notation as to the plat book and page; and any similarly recorded deed restrictions accompanying the plat.

Sec. 23.13 Design Standards.

- (A) *Lot area, width, & depth.* The area, width, and depth of lots in all subdivisions shall comply with the minimum requirements within the zoning district the property is located. No part of the minimum area of a lot required under the Zoning Ordinance shall be satisfied by land that is under water. Where a watercourse separates the buildable area of

a lot from the street from which it receives access, provisions shall be made for access to such lot as approved by the Director of Public Works.

(B) *Lot frontage.* No subdivision shall be approved unless the lots to be subdivided shall have frontage on a street/highway/drive equal to the minimum lot width required for the zoning district in which the property is located as specified in the Zoning Ordinance. Such frontage shall be located upon:

- (1) an existing public street or highway; or
- (2) a private street, which meets the standards within the current edition of Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas and which connects with an existing public street or highway; or
- (3) an access drive, which meets the standards within the current edition of Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas, and which connects to an existing public street or highway.

(C) *Frontage of Lots on Circular Turnarounds.* The minimum street frontage required for a lot fronting on a public or private street turnaround shall be equivalent to the minimum lot width required by the applicable zoning district, but shall be measured twenty-five (25) feet perpendicularly from the right-of-way line.

(D) *Utility lines.* All lots shall have access to utilities. Where lots do not have access to utilities, the subdivider shall provide utility easements and have utilities installed. All utility lines shall be located underground throughout the subdivision. Whenever existing lines are relocated, they shall be placed underground. Pad-mounted transformers, and service pedestals may be installed above ground. Utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be extended to a point at least three feet beyond the edge of the pavement.

(E) *Monuments and Corner Markers.*

- (1) All block corners, angle points and points of curves, and all corners of boundary lines of subdivisions shall be marked with a one-half (1/2") inch steel rod, two (2') feet in length, set in the center of a concrete monument six (6") inches in diameter and thirty (30") inches deep, with the top flush with the finished ground surface.
- (2) Where, due to topographic conditions, permanent structures or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.
- (3) Corner markers, consisting of a one-half (1/2") inch steel rod or a three-quarter (3/4") inch pipe, two (2') feet in length, shall be driven flush with the ground surface to mark the corners of all lots.

- (4) *Offsets.* Should conditions prohibit the placing of any monument at the above locations, off-setting of the permanent marker is permitted, provided however, that the exact off-set courses and distances are shown on the letter of certification when monuments are set, as well as upon the record subdivision plat. If a monument would be in a driveway, a cross would be permitted in the concrete with a steel pin or iron pipe.

(F) *Blocks.* Block lengths shall not exceed 1000 feet.

Sec. 23.14 Standards And Specifications For The Installation Of Improvements.

The City shall not approve or accept any preliminary or record plats or completed improvements unless they conform to the following:

(A) *Streets.*

- (1) *Street layout.* The subdivider shall provide streets that conform to the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas and shall be considered in their relation to existing and planned streets, to topographic conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.
- (2) *Relation to adjoining street system.* Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.
- (3) *Projection of public streets.* Where adjoining areas are not subdivided, the arrangement of public streets in the subdivision shall make provisions for the proper projection of public streets into such un-subdivided areas.
- (4) *Street Jogs.* Street jogs with centerline offsets of less than 125 feet shall not be permitted.
- (5) *Street intersections.* Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain, topography, site distances and safety.
- (6) *Dead-end Streets:* Dead-end streets shall be prohibited except as short stubs not to exceed the depth of one (1) lot to permit future expansion. Short stub dead end streets shall not require turnarounds.
- (7) *Cul-de-sacs.* In general, cul-de-sacs streets shall not exceed 500 feet in length, and shall have a turnaround of not less than 100 feet in diameter (right-of-way).
- (8) *Right-of-ways.* Right-of-ways shall be in accordance with the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas
- (9) *Street names.* Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case, names of existing streets shall be used. Street signs that conform to City standards shall be installed at the expense of the subdivider.

- (10) *Traffic Regulatory Signs and Signals.* The subdivider shall bear all expense for the purchase and installation of all required traffic regulatory signs and signals as a result of the proposed development. The locations and type of traffic regulatory signs and/or signals required shall be determined by the Director of Public Works, the specifications of which shall conform to the current edition of the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas.
- (B) *Alleys.* If the subdivider chooses to construct/install alleys, he shall do so according to the current edition of Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas.
- (C) *Water installation.*
- (1) *Water supply and distribution.* All lots shall have access to potable water service, provided by a public water supplier and approved by the Texas Department of Health. The public water supplier must submit a letter to the City stating it agrees to supply water to the subdivision and that water meters are immediately available to every lot upon application and installation by the subdivider or the public water supplier.
- (D) *Sewers.*
- (1) *Sewer lines.* All lots shall have access to sanitary sewer facilities, including individual sewer connections for each lot in the subdivision. The sanitary sewer facility provider must submit a letter to the City stating it agrees to supply the sanitary sewer facilities to the subdivision.
- (2) *Septic Tanks.* Installation of septic tanks is prohibited.
- (E) *Drainage Easements.* Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs. The minimum easement width for an enclosed system is fifteen (15) feet, and for an open drain is thirty (30) feet.
- (F) *Sidewalks.* A developer shall install a sidewalk on a public street right-of-way, which is one (1) foot from the front lot line. Sidewalks shall be a minimum of five (5) feet wide in residential areas and eight (8) feet wide in business areas. The construction shall conform to the current edition of Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island.
- (G) *Reserve strips prohibited.* There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use, EXCEPT for properties that need to provide for public beach access and/or public beach parking consistent with 31 TAC, §15.7. In such exceptions, the reserve strip shall be clearly marked and labeled for such use.
- (H) *Private Improvements; Private Streets.*
- (1) *Applicability.* Private streets are permitted and are subject to the design criteria and standards of Chapter 23 Subdivision Ordinance. Private streets are only allowed within an enclave subdivision subject to being designed and constructed to the standards of a public street.
- (2) *Design Standards.* Right-of-way for a private street is not dedicated to the public; however, it must be designated as a "private street, drainage, and public utility easement." The right-of-way required for private streets shall be based upon the same criteria as for public streets in similar developments. The design standards

and construction specifications of private streets shall be the same as for public streets except as noted below:

- (a) A right-of-way of fifty (50) feet for a Local Street (as defined by Institute Transportation Engineers Functional Classification System).
 - (b) A right-of-way of twenty-five (25) feet for Access Drive(s).
 - (c) The paved street width, exclusive of curb exposures, shall be a minimum of twenty-five (25) feet for Local Streets.
 - (d) Dead-end street shall be allowed on blocks with six or fewer lots and less than 150 feet in length, measured from the point of intersection between the private street and the public right-of-way.
- (3) Certification. Upon completion of construction, the Public Works Director shall be provided with a written certification signed by a licensed professional engineer certifying that the private streets and sidewalks (as applicable) were designed and installed as required by the provisions of this chapter.
- (4) Maintenance. Private streets and sidewalks shall be owned and maintained by a corporation, community association, or other legal entity established for this purpose.
- (5) Converting Private Streets into Public Streets. Upon the request of any person, the City may, in its discretion, accept a private street(s) into the City's street network subject to the following processes:
- The requesting person at their expense must provide an engineering report to the public works department for review. The engineering report shall include all of the following:
- (a) Request from any person that the city accept the private street(s);
 - (b) Document indicating one hundred (100) percent owners' participation;
 - (c) Subdivision plat;
 - (d) Subdivision construction plans to include plan and profile;
 - (e) Certification letter from the project engineer certifying the construction of the subdivision was done in accordance with the public works specifications;
 - (f) Photos showing the conditions of the existing roadway and right-of-way throughout the subdivision; and
 - (g) Site plan showing location of streetlights and traffic control devices (if applicable).

The engineering report must be completed before the public works department proceeds with all of the following procedures:

- (i) Public works department receives engineering report and distributes it to appropriate city departments.
- (ii) If the Development Department determines one hundred (100) percent of the legal property owners are represented as supporters of the request, this information is forwarded to the Public Works Director. If support for the ownership transfer is less than one hundred (100) percent, this information is submitted to the public works department who will notify the applicant of the denial of the request.
- (iii) The Public Works Director will evaluate street surface condition and appurtenances information. If a low score is given, then the Public Works Director will notify the applicant of the denial of the request.
- (iv) The Public Works Director may recommend to City Council that it is in the interest of the City to accept the street for ownership and maintenance, and

subsequently, the City Council's approval of acceptance is required before any street may become a public street.

(v) Process for removal of control access facilities (gate, rails, house, etc.).

- (6) **Parking on Private Streets.** Parking shall be prohibited on any private street less than twenty-eight (28) feet in width and, if utilized on streets thirty (30) feet wide or wider, it must be clearly distinguishable from the movement lanes and not impede the lane(s) of travel.

(7) **Infrastructure Requirements.**

(a) **Streets and Sidewalks.** Vehicular circulation may also be provided by internal private Access Drives. Access Drives must meet the requirements for fire lanes as per the International Fire Code for width, lengths and parking requirements whether for a commercial or residential base zoning. A building permit must be obtained for Access Drives, and would include site plan review and inspection for flatwork/civil work within the public ROW.

(b) **Utilities.** All utility systems shall comply with the utilities standards of this chapter. Water and sanitary sewer systems may be publicly or privately owned; however, the maintenance of private systems shall be the responsibility of the community association. Public utility systems shall be approved by the applicable agency or city department.

(c) **Utility Easements.** Publicly owned and/or maintained utilities shall be placed in streets or easements, which are a minimum of sixteen (16) feet in width unless a narrower width is approved by the applicable utility.

The use of a utility easement may be permitted if it provides for each of the following:

(i) The easement shall be approved by the city (Development Director and the City Attorney) prior to recordation in the Cameron County Deed Records.

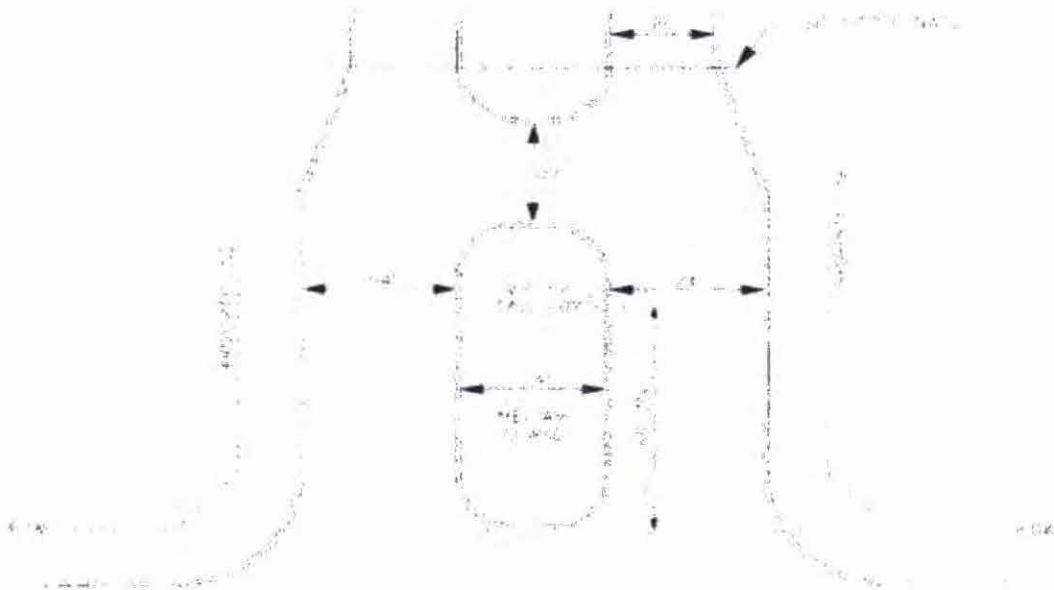
(ii) The document provides for an irrevocable access easement.

(iii) The easement shall be accompanied by a maintenance agreement that the owner of the property shall maintain the easement in a safe and operable condition and shall correct any safety hazards or eminent needs if such is determined to be required by the city in order to protect the use of the easement.

- (8) **Private Streets, sidewalks, landscaping and lighting, and other common areas and facilities.** Provisions shall be made for a property owners' association that is designated as the representative of the owners of property in a residential subdivision. The property owners' association shall have the direct responsibility to provide for the operation and maintenance of all common areas and facilities, including private streets and sidewalks, which are a part of the subdivision. The applicant shall submit the dedicatory instrument(s) covering the establishment, maintenance, and operation of a residential subdivision. The dedicatory instrument(s) shall establish a plan for the use and permanent maintenance of the common areas/facilities and demonstrate that the property owners' association is self-perpetuating and adequately funded by regular assessment and/or special assessment to accomplish its purposes. The dedicatory instrument(s) shall include provisions that provide the city with permission for access at any time without liability when on official business, and further, to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The dedicatory instrument(s) must be approved by the city attorney as to legal form prior to any plat recordation and shall be recorded at the same time as the plat.

- (a) "Property owners' association" means an incorporated or unincorporated association that: (i) is designated as the representative of the owners of property in a residential subdivision; (ii) has a membership primarily consisting of the owners of property covered by the dedicatory instrument for the residential subdivision; and (iii) manages or regulates the residential subdivision for the benefit of the owners of property in the subdivision. "Property owners' association" also means the designated representative of the owners of property in a subdivision and may be referred to as a "homeowners association," "community association," "civic association," "civic club," "association," "committee," or similar term contained in the dedicatory instrument.
- (b) "Dedicatory instrument" means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision. The term includes restrictions or other similar instruments that subject property to restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association; allow for properly adopted rules and regulations of the property owners' association; and authorize enactment of lawful amendments to the covenants, bylaws, rules, or regulations.
- (c) "Regular assessment" means an assessment, a charge, a fee, or dues that each owner of property within a residential subdivision is required to pay to the property owners' association on a regular basis and that is designated for use by the property owners' association for the benefit of the residential subdivision as provided by the dedicatory instrument.
- (d) "Special assessment" means an assessment, a charge, a fee, or dues, other than a regular assessment, that each owner of property within a residential subdivision is required to pay to the property owners' association, according to the procedures required by the dedicatory instrument which must have provisions for:
 - (i) Defraying, in whole or part, the cost whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in common areas owned by the property owners' association, including the necessary fixtures and personal property related to the common areas; (ii) Maintenance and improvement of common areas owned by the property owners' association; or (iii) Other purposes of the property owners' association as stated in its articles of incorporation or the dedicatory instrument for the residential subdivision. (iv) The entrance to private streets may provide control access by gates or other means permitted by this chapter.
- (9) Parking Requirements. Off-street parking and truck loading facilities shall be provided in accordance with parking standards of this chapter.
- (10) Gated Subdivision Streets.
 - (a) Pavement Management. The applicant shall include with the property owners' association (POA) documents a forecast and schedule of street maintenance costs prepared by a licensed professional engineer, licensed as such by the State of Texas. A maintenance account with seed money shall be established by the developer to enable the POA to meet the maintenance schedule until the POA is self-sufficient. Any POA requesting that the City acquire their private streets shall produce documentation that the maintenance schedule set forth in the POA's original pavement management plan as part of the POA documents has been followed.
 - (b) Fire Lanes. The POA documents shall require the POAs to identify and enforce a no parking restriction in fire lanes throughout the community.

- (c) **Master Key Security System.** A master key security system shall be provided on all gates. The security system shall include the following for the specified type of gate:
- (i) Electric Operated Gates require either a gate override in case of power failure and a master key provided to the fire department and police department, or a Knox box.
 - (ii) Non-electric Operated Gates require a Knox box.
- (d) **Queuing.** At gated entrances where traffic can queue into public streets, the gate and entrance design must provide for sufficient storage capacity so that no vehicles will queue into the public street. Queuing at a gated entrance shall be designed as follows:
- (1) That no vehicles will queue into the public street with a ninety-five (95) percent confidence level per engineering analysis. The minimum entryway vehicle storage length shall be forty (40) feet measured from the call box to the public right-of-way as shown in the figure below.
 - (2) The subdivide shall provide for vehicle turnaround capability based on the single unit design vehicle as provided in the 2004 AASHTO Green Book or latest revision thereof or be able to make a three-point turning movement.
 - (3) Should subdivision design conditions result in low traffic volume per engineering analysis (250 ADT or less) and speed controlled at or below 30 MPH, the minimum entryway vehicle storage length may be reduced to twenty (20) feet measured from the call box to the public right-of way. This provision shall not apply to collector streets with Average Daily Traffic (ADT) greater that 250; or to arterial roadways as defined by ITE.



Sec. 23.15 PERFORMANCE GUARANTEE.

- (A) Generally. The performance guarantee shall:
 - (1) Be submitted to the City Attorney for review and approval as to form and legality.
 - (2) Insure or guarantee the construction and completion of the improvements, as set forth in the final engineering plans over a period not to exceed one (1) year.
 - (3) Be in an amount equivalent to one hundred and ten (110) percent of the estimated cost of completion of all the improvements. Such estimate shall be prepared by the applicant and reviewed and approved by the Director of Public Works, who shall recommend the amount of the performance guarantee to the City Manager.
 - (4) Provide for the release of all of the monies so obligated upon demand by the City Manager.
- (B) Types of Securities. Performance guarantees securing the proposed improvements shall be secured to the City by one of the following methods, or combination thereof:
 - (1) Cash, deposited with the City Secretary, or deposited in a local bank in an account assigned to the City.
 - (2) A surety bond, issued on a corporate surety licensed and authorized to do business in the State of Texas as a surety.
 - (3) Certificates of deposit assigned to the City.
 - (4) An escrow account, such funds to be held in a special account by the escrow holder, distributed only with the approval of the City, and subject to audit by the City.
 - (5) An irrevocable letter of credit from a bank and assigned to the City.
 - (6) Other financial guarantee that the City Council deems adequate to secure the proposed improvements. Any alternative performance guarantees submitted shall not include either "signature" or "property" bonds.

The City Council expressly reserves the right to reject any guarantee it considers to be inadequately secured.

- (C) Bonds, Escrow Agreements, Irrevocable Letters of Credit, Issued by Whom.
 - (1) A security issued by a surety company, title insurance company, escrow agent, or bank shall insure or guarantee, to the extent specified by the Director of Public Works in his estimate of cost thereof, the construction and completion of all of the improvements proposed by the final engineering plans.
 - (2) In no event shall the surety company, title insurance company, escrow agent, or bank, have any material or other property interest in the proposed subdivision to which the performance guarantee relates, nor have any other business relationship with the subdivider in any other subdivision, development, or project that would, from the standpoint of the City, be considered a conflict of interest. The surety company, title insurance company, escrow agent, or bank shall attach to the performance guarantee a notarized disclosure statement fully disclosing all current and impending business relationships with the subdivider.
 - (3) The City Attorney shall approve all surety companies, title insurance companies, escrow agents, and banks for eligibility. If the surety

company, title insurance company, escrow agent, or bank fails to comply with any of the provisions of the performance guarantee, or fails to release the obligated monies to the City upon demand, they shall not be allowed to act in that capacity for any project within the jurisdiction of the City for a period of five (5) years, and shall be subject to the penalties herein established. In addition, the City Attorney shall take such other actions in law or in equity as may be required to secure all obligated funds.

(D) Release of Guarantee.

- (1) Term. The term of the performance guarantee shall not exceed one (1) year.
- (2) Inspection. Before the subdivider's obligation to the City of South Padre Island is terminated, all required improvements shall be constructed under the observation and inspection of the inspecting agency, and shall either be accepted for maintenance by the City Council (or respective agency) in the instance of public improvements, or given final approval by the City Council on recommendation by the Director of Public Works in the instance of private improvements.
- (3) Procedure for the Release of Performance Guarantee.
 - (a) The subdivider may, from time to time, request partial release of the obligated sum contained in the performance guarantee as work progresses. Such a request shall be in writing, addressed to the Director of Public Works, and shall specify the work that has been completed as well as the work remaining to be completed. The amount requested for release shall be determined by using current market values for materials and labor, and shall not exceed the ratio of work completed to the entire improvements secured.
 - (b) Upon receipt of such request, the Director of Public Works (or his appointed designee) will verify the actual level of completion and will prepare a recommendation on the requested release for presentation to the City Council. In preparing the recommendation, the Director of Public Works may:
 1. Recommend release of the amount requested; or,
 2. Recommend the release of some other amount which, based upon the investigation, more accurately reflects the actual level of completion in relation to the entire amount of improvements secured.
 - (c) Following receipt of the Director of Public Works' recommendation on the requested release, the City Council may:
 1. Approve the amount recommended by the Director of Public Works; or,
 2. Approve the release of an amount **less** than the amount recommended by the Director of Public Works; or,
 3. Deny the request.
 - (d) Following action by the City Council on the requested release, the City Secretary shall notify in writing the surety holding the performance guarantee authorizing the specific release. Until such time as the City Council shall, by such written authorization addressed to the surety, release the specified amount, the surety

shall continue to hold the obligated sum as established in the agreement.

- (e) In no case shall the City Council release more than eighty (80) percent of the total performance guarantee over the term of the guarantee. The final twenty (20) percent of the performance guarantee shall only be authorized for release by the City Council in its entirety after the Director of Public Works certifies that all improvements have been completed in their entirety, constructed in accordance with the approved final engineering plans, and meet all of the City's required standards and specifications.
- (f) If, at the end of the one (1) year period, all of the improvements reflected by the final engineering plans have not been completed:
 - 1. The subdivider may submit a one time renewal of the performance guarantee (a limit of one renewal only), which has been recalculated in order to allow for inflation, a period not to exceed one (1) additional year; or
 - 2. The surety shall perform on the guarantee and directly remit to the City the amount of the guarantee. It shall be the responsibility of the surety to perform on such guarantee regardless of the expiration of the guarantee and regardless of whether or not the City reminds the surety of such contract termination.

The City will contract the completion of the work reflected by the final engineering plans approved the by the City. Any amount not utilized to complete the outstanding work will be returned to the subdivider once the work has been accepted by the City.

All costs incurred by the City in contracting for completion of the work will come from the performance guarantee.

- 3. The subdivider may vacate the plat by replatting back to the original configuration prior to the plat in question.

If the subdivider elects to vacate the plat after the performance period has expired, they shall immediately remit 100% of the performance guarantee to the City. This will be returned to the subdivider only after the plat has been successfully vacated.

If the subdivider has not completed the vacation of the plat within six (6) months of the end of the last performance guarantee period, the total amount of the performance guarantee shall be forfeited to the City to allow completion of the work reflected by the final engineering plans approved by the City. Any amount not utilized to complete the outstanding work (including contracting expenses) will be returned to the subdivider once the work has been accepted by the City.

Sec. 23.16 Authority Of The Public Works Director.

(A) The Public Works Director is hereby authorized to promulgate, or to have promulgated, and to file for public record and use, rules, regulations, applications, standards and specifications for the construction, installation, design, location and arrangement of street, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements,

sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, water wells, monuments, criteria for drainage easement requirements, and drainage facilities and crosswalk ways, but all such rules, regulations, standards and specifications shall be subject to the approval of the Planning and Zoning Commission and the City City Council.

(B) The Public Works Director may amend the same from time to time, provided that an amendment must be appropriately reviewed by the Planning and Zoning Commission and approved by the City Council.

(C) No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City.

(D) All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

Sec. 23.17 Conflict With Other Ordinances. Whenever the standards and specifications in this chapter conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

Sec. 23.18 Saving Provision

(A) Pending Plats: Any prior approved plats or applications filed for plat approval or pending under any prior ordinance or regulation shall be regulated by the prior ordinance or regulation and said previous law is continued except as allowed in Section 23-18 (B) below.

(B) Exception: Notwithstanding anything to the contrary contained herein or otherwise, as to any element or feature of any matter which is pending under this Chapter on the date upon which this Ordinance is adopted, and which element or feature violates any pre-existing regulation(s) but would not violate the applicable provisions of this Chapter, the pertinent provision(s) of such prior regulation(s) shall be deemed wholly inapplicable to such pending matter(s) and the pertinent provision(s) of this Chapter shall apply.

Sec. 23.19 – Sec. 23.98 RESERVED.

Sec. 23.99 Penalty. Any person violating any provision of this chapter within the corporate limits of the City shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding \$500. Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violation of this chapter. In addition to any other penalties or remedies which may be imposed or assessed, the person(s) responsible for any such violation(s) shall reimburse the City, upon written demand, for all out-of-pocket costs and expenses incurred by the City in addressing any such violation(s).

Chapter 24

SEXUALLY ORIENTED BUSINESSES

ARTICLE I. IN GENERAL

Sec. 24-1. Purpose and scope.

- (A) The purpose of this chapter is to regulate sexually oriented businesses to promote the public health, safety and welfare of the citizens of South Padre Island, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses in the City.
- (B) The provisions of this chapter have neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, nor is it the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the U.S. Constitution, or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- (C) The City Council finds that the findings and conclusions recited in the preamble to the ordinance adopting this chapter are in all things true and correct.

Sec. 24-2. Definitions

When used in this chapter, the following words and terms shall have the following meanings ascribed to them unless the context of their usage clearly indicates another meaning or a more specific definition is introduced in a specific section:

“Adult arcade/adult video arcade/adult movie arcade”. Any place or establishment containing one (1) or more arcade devices, or any other establishment which regularly offers still or motion pictures, video displays, or games, to which the public is invited, wherein coin operated, slug operated or electronically, electrically, or mechanically operated still or motion picture machines, projectors or other image producing devices controlled by the permittee are maintained to show images to five (5) or fewer persons per machine at any one time and where the images to displayed are distinguished or characterized by an emphasis on matter intended to provide sexual stimulation or sexual gratification to the customer or which images depict, describe or relate to “specified sexual activities” or “specified anatomical areas”.

“Adult bookstore/adult video store”. A commercial establishment which regularly offers for sale or rents for off-premises use, books, magazines, films or videotapes, periodicals or other printed or pictorial materials which are distinguished by or characterized by an emphasis on matter intended to provide sexual stimulation or sexual gratification to the customer or which depict, describe or relate to “specified sexual activities” or “specified anatomical areas” and where a substantial or significant portion of its stock in trade consists of such offerings.

“Adult cabaret”. A commercial establishment which regularly offers live entertainment which is distinguished by or characterized by an emphasis on matter, physical displays or

entertainment intended to provide sexual stimulation or sexual gratification to the customer or which depicts, or relates to “specified sexual activities” or “specified anatomical areas”.

“Adult encounter parlor/business”. A commercial establishment which regularly provides off-premise services, on-premise services, or premises where customers either congregate, associate or consort with employees and such conduct is intended to provide sexual stimulation or sexual gratification to the customer or where employees engage in “specified sexual activities” or display “specified anatomical areas” in the presence of such customers.

“Adult lounge”. A commercial establishment which regularly offers live entertainment which is distinguished by or characterized by an emphasis on matter, physical displays or entertainment intended to provide sexual stimulation or sexual gratification to the customer or which matter, physical displays or entertainment depicts, describes or relates to “specified sexual activities” or “specified anatomical areas: and which is a permitted or licensed premise, pursuant to the Texas Alcoholic Beverage Code, where alcoholic beverages may be served or sold.

“Adult modeling studio/nude studio/love parlor”. A commercial establishment which regularly provides models who engage in “specified sexual activities” or display “specified anatomical areas” or appear “nude or in a state of nudity” while being observed or painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

“Adult motel”. A hotel, motel or similar commercial establishment which regularly:

- (2) Offers accommodations to the public for any form of consideration and provides patrons 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 which has a sign visible from the public right-of-way which advertises the availability of such material;
- (3) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (4) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

“Adult movie theater”. A commercial establishment containing a room with seats facing a screen or projection area which regularly exhibits motion pictures which are distinguished by or characterized by an emphasis on matter intended to provide sexual stimulation or sexual gratification to the customer or which motion pictures depict, describe or relate to “specified sexual activities” or “specified anatomical areas”.

“Adult novelty shop”. A commercial establishment which regularly sells products which are distinguished or characterized by an emphasis on matter intended to provide sexual stimulation or sexual gratification to the customer or which products depict, describe or relate to “specified sexual activities” or “specified anatomical areas”.

“Applicant”. The applicant for a permit shall be all of the owners of the business applying for a permit.

"Arcade device". Any coin-operated, slug-operated or electronic, electrical or mechanical device controlled by the permittee, that dispenses or effectuates the dispensing of displays, still or motion pictures, or video displays featuring matter intended to provide sexual stimulation or sexual gratification to the customer for which matter depicts, describes or relates to specified sexual activities" or "specified anatomical areas" and that shows images to five (5) or fewer persons in exchange for the payment of any consideration.

"Chief of Police". The Chief of Police of the City of South Padre Island or his designated agent.

"Church". A building in which persons regular assemble for religious worship and which is intended primarily to purposes connected with such worship or for propagating a particular form of religious belief.

"Conducts business". A person "conducts business" if that person:

- (1) Operates a cash register, cash drawer or other depository on business premises where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the establishment or the activities conducted therein are kept.
- (2) Displays or takes orders from any person for any merchandise, goods, entertainment or other services offered on the business premises;
- (3) Delivers or provides to any person any merchandise, goods, entertainment or other services offered on the business premises;
- (4) Acts as a door attendant to regulate entry of persons into the business premises; or
- (5) Supervises or manages other persons in the performance of any of the foregoing activities on the business premises.

"Customer/patron". Any person who:

- (1) Is on the premises of a regulated establishment in return for the payment of an admission fee or any other form of consideration or gratuity.
- (2) Is on the premises of a regulated establishment and purchases, rents or otherwise utilizes any merchandise, goods, entertainment or other services offered therein; or
- (3) Is on the premises of a regulated establishment operating as a private club and is a member of such club.

"Dwelling". A building or portion thereof designed or used for residential occupancy and for which a certificate of occupancy for such use has been issued, including one (1) family, two (2) family or multiple-family dwellings, but not including boarding and lodging houses, hotels or tourist courts.

"Employee". Any person who conducts business in or renders any service whatsoever to any person in a regulated establishment or who works in or about such a regulated establishment

and who receives compensation for such service or work from the operator or owner of the regulated establishment or from the customers therein. The term employee includes an independent contractor. A person is an employee if that person is an employee of the owner of a regulated establishment and is at any time on the premises of such regulated establishment whether working or not.

“Entertainment”. Any act or performance such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by an owner, employee or customer, intended to provide sexual stimulation or sexual gratification to a customer. The term entertainment” shall also mean an owner, employee or customer engaging in “specified sexual activities” or exposing “specified anatomical areas” in the presence of a customer.

“Escort”. A person who for consideration agrees or offers to act as a companion, guide or date for a person or persons, and who agrees or offers to privately model lingerie or to privately expose “specified anatomical areas” or appear “nude or in a state of nudity: for that person or persons or requests that person or persons to expose “specified anatomical areas” or appear “nude or in a state of nudity”.

“Escort agency”. A commercial establishment, which furnishes, offers to furnish or advertises to furnish an escort to a person or persons for a fee, tip or other consideration.

“Individual”. A natural person.

“Manager”. An owner, manager, employee or other individual appointed by the owner to manage, direct and control the premises and operations of the sexually oriented business. A manager is an individual principally in charge of a regulated establishment at any time and who is responsible for the conduct of the business.

“Model”. Any person who poses to be observed, viewed, sketched, painted, painted upon, sculpted, drawn, photographed or otherwise depicted while engaging in “specified sexual activities” or displaying “specified anatomical areas” or while appearing “nude or in a state of nudity”.

“Nudity or state of nudity”. A state of dress that less than completely and opaquely covers:

- (1) A live human in full nudity;
- (2) Human genitals;
- (3) A human pubic region or pubic hair;
- (4) The crevice of the human buttocks;
- (5) Portions of the post puberty female breast or breasts below a point beginning immediately above the top of the areola and continuing downward to the lowest portion of the breast; or

(6) Any combination of the above.

“Owner”. The proprietor, if a sole proprietorship; all general partners and all limited partners with twenty (20) per cent or more of the investment in the partnership, if a partnership; or all officers, directors and any persons holding twenty (20) per cent or more of the outstanding shares, if a corporation.

“Permit”. A current, valid permit issued by the chief of police pursuant to the terms of this chapter to the owner of a sexually oriented business.

“Premises”. A tract of land (lot) occupied by a dwelling or regulated establishment, provided however, if a building has been physically divided into separate units such that each unit has its own individual means of ingress or egress to the exterior of the building and which units are offered by lease or otherwise for separate use and control, then “premises” shall refer to each such separate unit.

“Regulated establishment”. Any sexually oriented business regulated under the provisions of this chapter.

“Residential district”. A farm-rural, residential estate, one (1) family dwelling, Townhouse dwelling, multiple dwelling, travel trailer park, mobile home park, mobile home subdivision, apartment house or apartment-tourist district as defined in the zoning ordinance of the City of South Padre Island.

“Sexually oriented business”. An adult cabaret, adult lounge, nude studio, adult modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, adult novelty shop, adult arcade, adult encounter parlor, escort agency or other commercial enterprise the primary business of which is the regular 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 or which regularly sells, rents or exhibits pictures, whether motion or still, or sells, rents or exhibits devices or any other items distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.

“Specified anatomical areas”. A less than completely and opaquely covered human genitals, pubic region, anus or portions of the post puberty female breast or breasts below a point beginning immediately above the top of the areola and continuing downward to the lowest portion of the breast, or human genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernibly turgid state.

“Specified sexual activities”. Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated;

- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

“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 cumulative transfer of securities which constitute a twenty (20) per cent or more interest in the business, whether by sale, exchange or other similar means;
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except where the only effect is to change the form of ownership and not any part of the effective or beneficial ownership or control; or
- (4) The transfer by bequest or other operation of law upon the death of the person possessing ownership or control.

Section 24-3. Enforcement.

- (A) The provisions of this chapter are remedial and shall, unless otherwise addressed in a specific section, be construed to apply to all sexually oriented businesses now existing and to those that may be established in the future.
- (B) The locational regulations and permitting requirements in Section 24-4 and Sections 24-18 through 24-24 adopted hereunder are adopted under the authority of Chapter 243 of the Texas Local Government code. A violation of any of the locational and permitting provisions in Section 24-4 and Sections 24-18 through 24-24 of this chapter adopted under the authority of Chapter 243 of the Texas Local Government code shall constitute a Class A misdemeanor and may be punished in accordance with Chapter 12 of the Texas Penal Code.
- (C) A violation of any of the provisions of sections 24-5 through 24-17 shall constitute a Class C misdemeanor and may be enforced in accordance with Chapter 54 of the Texas Local Government Code and Sec. 21-1 of the Code of Ordinances of the City of South Padre Island.
- (D) Sections 24-4 through 24-7 of this chapter may be amended only after compliance with the procedure required to amend a zoning ordinance contained in Chapter 211, Texas Local Government Code.
- (E) Each calendar day that any violation shall occur or continue to occur shall constitute and be punishable as a separate offense.
- (F) The revocation or suspension of a permit shall not prohibit the imposition of a criminal penalty. The imposition of criminal penalty shall not prohibit the revocation or suspension of a permit.
- (G) The City may bring a civil action for the enforcement of this chapter.

(H) No provision of this chapter shall be construed as relieving any party from any other provision of state or federal law or from any provision of an ordinance, rule or regulation of the City of South Padre Island.

(I) Culpability shall be determined in accordance with the Texas Penal Code, §6.02.

ARTICLE II. GENERAL OPERATING REGULATIONS

Sec. 24-4. Location of sexually oriented businesses.

(A) The operation of sexually oriented businesses is prohibited on premises that are located within two hundred (200) feet of a existing single family, two family residence, the Single Family dwelling district ("A" District), Low Density Residential District ("E" District) Church, school or public park. Measurements shall be made in a straight line without regard to intervening structures or object, from the nearest point on the premises of the sexually oriented business to the nearest point on the boundary line of such residential premises or residential districts.

(B) The operation of sexually oriented businesses is prohibited on premises that are located within five hundred (500) feet of another sexually oriented business, which has been issued a permit under this chapter. Measurements shall be made in a straight line without regard to intervening structures or objects from the nearest point on the premises of the sexually oriented business to the nearest point on the premises of any other sexually oriented business.

(C) The operation of sexually oriented businesses is permitted on premises that are located in the "C" (Commercial) Zone, as that term is defined in the Zoning Ordinance and Map of the City of South Padre Island, and no other Zoning District.

(D) The operation of sexually oriented businesses is prohibited on premises that are located within one hundred fifty (150) feet of the right-of-way of Padre Boulevard.

Sec. 24-5. Exemption from location restrictions.

(A) If the location of a sexually oriented business establishment is in violation of Subsection 24-4 (A) or 24-4 (B) of this chapter, then the applicant may file with the office of City Manager a written request for an exemption from the locational restrictions of Subsection 24-4 (A) or 24-4 (B).

(B) The City Manager or designee shall set a date for the hearing within sixty (60) days from the date the written request is received when the Zoning Board of Adjustment shall consider the request.

(C) The Zoning Board of Adjustment shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(D) The Zoning Board of Adjustment may, in its discretion, grant an exemption from the locational restrictions of Subsection 24-4 (A) or 24-4 (B) by a concurring vote of seventy-five percent of the members of the board if it makes the following findings:

- (1) That the location of the proposed sexually oriented business will not have a detrimental effect on nearby residential or commercial 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 chapter of the City of South Padre Island Code of Ordinances.
 - (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;
 - (5) That the distance requirements for the location of the sexually oriented business contained in Subsection 24-4 (B) of this chapter may not be reduced by more than two hundred fifty (250) feet; and
 - (6) That all other applicable provisions of this chapter will be observed.
- (E) The Zoning Board of Adjustment shall approve or deny the exemption in accordance with the procedures for Zoning boards of Adjustment contained in the Texas Local Government code, Chapter 211. Notice shall be provided in accordance with the provisions of Texas Local Government Code §§211.006 and 211.007.
- (F) If the Zoning Board of Adjustment denies the exemption, the applicant may not re-apply for an exemption from the locational regulations of the chapter for the same premises until at least twelve (12) months have elapsed since the date of the Board's action.
- (G) The grant of an exemption does not exempt the applicant from any other provisions of this chapter other than the locational restrictions of Subsection 24-4 (A) or 24-4 (B).

Sec. 24-6. Existing businesses.

- (A) A sexually oriented business lawfully operating on July 20, 2001 that is in violation of Subsections (A), (B), (C) or (D) of Section 24-4 shall be deemed a legal nonconforming use. Except as provided in this section, such nonconforming use shall be interpreted and applied in accordance with Sec. 20-12, Nonconforming Uses of the Zoning Ordinance of the City of South Padre Island. A nonconforming use allowed under this Subsection, including signs, shall not be increased, enlarged, extended or altered except the use may be changed to a conforming use.
- (B) A legal nonconforming use must register and obtain a permit as provided by Article IV of this chapter on or before January 1, 2002 or it shall be in violation of this Chapter. No application received by the City after January 1, 2002 shall be considered.
- (C) A sexually oriented business operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a sexually oriented business permit,

of a single family residence, two family residence, Single Family dwelling district ("A" District), Low Density Residential District ("E" District), Church, school or public park within two hundred (200) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

Sec. 24-7. On-premise advertising and signs.

- (A) On-premise advertisements, displays or other promotional materials for a sexually oriented business, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" shall not be shown or exhibited so as to be visible to the public from public places located outside the business premises.
- (B) A person commits an offense if that person allows on-premise advertisements, displays or other promotional materials for a sexually oriented business, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" to be shown or exhibited so as to be visible to the public from public places located outside the business premises.
- (C) Notwithstanding the City's Zoning Ordinance, Building Code or any other City ordinance, code or regulation to the contrary, it shall be unlawful for the owner or operator of any sexually oriented business to maintain or have maintained by another person more than one (1) primary sign and more than one (1) secondary sign on the premises of a sexually oriented business.
- (D) Primary signs shall not exceed one (1) structure or device. Such primary sign shall
 - (1) Be a flat plan and rectangular in shape;
 - (2) Not exceed seventy-five (75) square feet in area composed of extending lines including the outer extremities of all letters, symbols, figures, character and delineations or the framework or background whichever lines include the larger area. Double faced signs shall count as one (1) face provided that the faces are back-to-back, parallel and not more than thirty-six (36) inches apart;
 - (3) Not exceed ten (10) feet in height or ten (10) feet in width; and
 - (4) Not contain any moving parts, flashing lights, reflectors, photographs, silhouettes, drawings or pictorial representations of any manner.
- (E) Secondary signs shall have only one (1) display surface. The surface display shall:
 - (1) Be a flat plan and rectangular in shape;
 - (2) Not exceed twenty (20) square feet in area;
 - (3) Not exceed five (5) feet in height or eight (8) feet in width;

- (4) Be affixed flat against any wall or door of the business; and
 - (5) Not contain any moving parts, flashing lights, reflectors, photographs, silhouettes, drawings or pictorial representations of any manner.
- (F) In this section, “premises” or “on-premise” means all of a tract of commercial property in which a sexually oriented business is located in addition to the area encompassed in the definition of “premises” contained in Section 24-2 of this chapter.

Sec. 24-8. Inspections.

- (A) An owner, manager or an employee of a sexually oriented business shall allow representatives of the Police Department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time the sexually oriented business is open for business.
- (B) An owner, manager or employee of a sexually oriented business commits an offense if that person refuses to permit an inspection of the premises at any time it is open for business.

Sec. 24-9. Notice.

- (A) Any notice required or permitted to be given by any City personnel or department under this chapter to any applicant or owner of a sexually oriented business may be given either by personal delivery or by U.S. Postal Service certified mail, postage prepaid, return receipt requested, to the most current business address as specified in the application for the permit, or any amendment thereof, which has been received by the Chief of Police. Notification or delivery by mail shall be complete upon deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. Receipt of notice by mail shall be deemed to occur on the date physically received or the third day following notification, whichever is earlier.
- (B) In the event that any notice given by mail is returned by the U.S. Postal Service, the Chief of Police shall cause it to be posted in plain view at the principal entrance to the business.
- (C) A person commits an offense if that person removes any notice or order posted upon any sexually oriented business pursuant to this chapter. It is a defense to prosecution under this chapter that the actor had the prior express consent of the Chief of Police to remove any notice or order.

Sec. 24-10. Age restrictions.

- (A) A person under the age of eighteen (18) years is prohibited from entering into or being on the premises of a sexually oriented business.
- (B) A person commits an offense if that person is under the age of eighteen (18) years and knowingly enters into or is on the premises of a sexually oriented business.

- (C) An owner, manager or employee commits an offense if that person knowingly, recklessly or with criminal negligence allows a person who is under the age of eighteen (18) years to remain on the premises of a sexually oriented business.
- (D) It shall be the duty of the owner or manager of each regulated business to ensure that an employee is stationed at or has in view each public entrance to the regulated business at all times during regular business hours. It shall be the duty of the employee not to allow any person under the age of eighteen (18) years to enter the establishment.
- (E) It shall be presumed that an owner, manager or an employee knew a person was under the age of eighteen (18) years unless such employee asked for and was furnished a valid drivers license or a valid personal identification certificate issued by the Texas Department of Public Safety, the licensing authority of another state or the federal government reflecting that such person is eighteen (18) years of age or older. It shall be a defense to any charge under this section that the owner, manager, or employee was shown by such person a driver's license or other personal picture identification which, upon reasonable examination, appeared to be valid on its face reflecting that such person is more than seventeen (17) years old.

Sec. 24-11. Public health and education.

- (A) Each room or compartment of the sexually oriented business to which patrons are allowed access shall have a sign posted with a sexually transmitted disease (STD) educational message, which will consist of one (1) of the following statements in both the English and Spanish languages in letters not less than one and one-half (1 1/2) inches in height.

STOP SEXUALLY TRANSMITTED DISEASES
AVOID CONTACT WITH SEXUAL FLUIDS

SEXUALLY TRANSMITTED DISEASES ARE TRANSMITTED
BY SEX WITHOUT CONDOMS

- (B) An owner of a sexually oriented business commits an offense if the sexually oriented business does not have an STD educational message posted in plain view in each room or compartment of the sexually oriented business to which patrons are allowed access.
- (C) All sexually oriented businesses shall be kept in a clean and sanitary condition. This subsection shall be enforced in accordance with the provisions of the Texas Health and Safety Code and the public health provisions of the Code of Ordinances of the City of South Padre Island.

Sec. 24-12. Management of sexually oriented businesses.

- (A) The owner shall designate and appoint an individual(s) to manage, direct and control the premises and operations of the sexually oriented business.
- (B) The person(s) appointed to manage, direct and control the sexually oriented business shall remain in or upon the premises at all times the sexually oriented business is open.

- (C) During the time a person is on duty as manager, the person appointed to manage, direct and control the sexually oriented business shall at all times have the duty to ensure that each employee in the sexually oriented business has training on the requirements of this chapter and is instructed to commit no act which would constitute a violation of this chapter or which would provide grounds or part of the grounds for revocation of a permit under this chapter. A manager commits an offense if he fails to see that such training and instruction is provide.
- (D) The person appointed to manage, direct and control the sexually oriented business commits an offense if that person solicits, encourages, directs, aids or attempts to aid, an employee to violate the provisions of this chapter.

ARTICLE III. ADDITIONAL OPERATING REGULATIONS

Sec. 24-13.

- (A) In each adult arcade/adult video arcade/adult movie arcade, at least one (1) manager's station shall be located within the premises and such location(s) shall provide an owner, manager or employee on duty with an unobstructed view of every area of the adult arcade to which any patron is permitted access for any purpose, other than toilet facilities, from said manager's station. If an adult arcade has two (2) or more manager's stations, the interior design of the adult arcade shall be configured to provide an unobstructed view of each area of the adult arcade to which any patron is permitted access for any purpose, other than toilet facilities, from at least one (1) of the manager's stations. The view required must be by direct line of sight from a manager's station and there must be sufficient light for a person at the manager's station(s) to view every area of the adult arcade to which any patron is permitted access for any purpose, other than toilet facilities. Each manager's station shall be manned at all times. It shall be the duty of the owners, managers and employees of the adult arcade to ensure that the view area as specified in this ordinance remains unobstructed by merchandise, display racks or other materials at all times that any patron is present in the adult arcade.
- (B) No owner, manager or employee of an adult arcade shall equip or allow to remain equipped any area to which patrons are permitted access with screens, doors, curtains or obstructions and coverings of any kind that prevent a direct and unobstructed view of the area. This subsection shall not apply to toilet facilities, nor shall it be deemed to prevent the use of exterior doors.
- (C) All interior walls of any areas into which patrons are allowed access shall be continuous from floor to ceiling, with no apertures, holes or other openings.
- (D) A viewing compartment, cubicle or booth shall not be occupied by more than one (1) person at any time.

Sec. 24-14, Escort Agencies.

- (A) The owner or manager of an escort agency shall not employ as an escort any person under the age of eighteen (18) years.

- (B) A person commits an offense if that person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.
- (C) An owner or manager of an escort agency commits an offense if that person employees as an escort any person under the age of eighteen (18) years.
- (D) An owner, manager or employee of an escort agency commits an offense if that person, while he or she is employed as an escort for any compensation whatsoever, exposes that person's genitals, pubic region or pubic hair or the crevice of the buttocks.
- (E) An owner, manager or employee of an escort agency commits an offense if, while he or she is employed as an escort for any compensation whatsoever, the owner, manager or employee solicits a customer to expose the customer's genitals, pubic region or pubic hair or the crevice of the buttocks.
- (F) An owner, manager or employee of an escort agency commits an offense if, while he or she if employed as an escort for any compensation whatsoever, and appearing "nude or in a state of nudity" he or she touches a customer or the clothing of a customer.

Sec. 24-15. Adult modeling studios.

- (A) An owner, manager or employee of an adult modeling studio shall not place or permit a bed, sofa or mattress in any room on the premises of an adult modeling studio, except that a sofa may be placed in a reception room open to the public.
- (B) An owner, manager or employee of an adult modeling studio commits an offense if that person places or permits a bed, sofa or mattress in any room on the premises of an adult modeling studio, except in a reception room open to the public.
- (C) No person shall be permitted to use the premises of an adult modeling studio as living quarters or residence in any capacity, temporarily or permanently.
- (D) An owner, manager or employee of an adult modeling studio commits an offense if that person uses or allows another person to use the premises of an adult modeling studio as living quarters or residence in any capacity, temporarily or permanently.
- (E) No adult modeling studio shall be kept open for business between the hours of 10:00 p.m. and 8:00 a.m.
- (F) An owner, manager or employee of an adult modeling studio commits an offense if that person conducts business as an adult modeling studio or operates an adult-modeling studio between the hours of 10:00 p.m. and 8:00 a.m.

Sec. 24-16. Adult motels.

- (A) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours

creates a presumption that the establishment is an adult motel as that term is defined in this chapter.

- (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 permit, that person rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, that person 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. 24-17. Adult cabarets/adult lounges.

- (A) An owner, manager or employee of an adult cabaret/adult lounge commits an offense if, while exposing that person's genitals, pubic region or pubic hair or anus, he or she is on the premises of an adult cabaret/adult lounge and in an area of the premises open to customers, excluding toilet facilities.
- (B) An owner, manager or employee commits an offense if the owner, manager or employee of an adult cabaret/adult lounge permits any customer access to an area of the premises not visible by a walk through of the premises without entering a closed area, excluding toilet facilities.
- (C) An owner or manager who operates an adult cabaret/adult lounge commits an offense if the owner or manager operates an establishment without maintaining a current list of all employees. The list must be kept on file at the establishment at all times whether the employee is on or off-duty and include the following information regarding each employee:
 - (1) Correct legal name;
 - (2) All alias or stage names currently used by the employee;
 - (3) Date of birth;
 - (4) Race;
 - (5) Color of hair and eyes;
 - (6) Current residence and phone number; and
 - (7) Texas driver's license number or identification number.
- (D) The owner, manager or employee of a regulated establishment commits an offense by failing to provide or by providing false or deceptive information on an employee list that was requested by a licensed peace officer for purposes related to the enforcement of this chapter. It is a defense to prosecution of the owner or manager for providing false or deceptive information under this subsection that the information in Section 24-17(C)(2), (4), (5) and (6) was provided in writing by the employee and is maintained by the permittee on the premises of the sexually oriented business while such person is an employee of the sexually oriented

business and the owner or manager had no reason to doubt the information presented. If is a defense to prosecution of an owner or manager for providing false or deceptive information under this Subsection that the information in Section 24-17 (C) (1), (3) and (7) was obtained from a current Texas driver's license, a copy of which is maintained by the permittee on the premises of the sexually oriented business while such person is an employee of the sexually oriented business and the owner or manager had no reason to doubt the information presented.

ARTICLE IV. PERMITS

Sec. 24-18. Permits required.

- (A) A commercial establishment that is sexually oriented business shall be permitted in accordance with this chapter. Each adult cabaret, adult lounge, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, adult novelty shop, adult arcade, adult encounter parlor, escort agency or other type of sexually oriented business shall require a separate permit.
- (B) A person commits an offense if that person conducts business as a sexually oriented business within the City of South Padre Island unless the person posts the permit at or near the principal public entrance to the business in such a manner that it will be conspicuous to patrons who enter the premises or behind the bar in a conspicuous manner.
- (C) A person commits an offense if that person conducts business as a sexually oriented business within the City of South Padre Island unless the person posts the permit at or near the principal public entrance to the business in such a manner that it will be conspicuous to patrons who enter the premises or behind the bar in a conspicuous manner.
- (D) Every permittee shall have and maintain exclusive occupancy and control of the entire permitted premises in every phase of the operation of the sexually oriented business on the permitted premises. A permittee commits an offense if the permittee attempts to avoid such responsibility by creating any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee.

Sec. 24-19. Permit application.

- (A) Applications for a permit, whether original or renewal, must be made to the Chief of Police by the owner of the business. Applications must be submitted to the Police Department between the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday (city holidays excepted). Application forms shall be supplied by the Chief of Police.
- (B) The applicant shall be the owner and shall provide the following information on the application form:
 - (1) The name and a street address (and mailing address, if different) and valid state driver's license number or identification card number of the applicant.
 - (2) The name under which the business is to be operated and a general description of the services and products to be provide.

- (3) The telephone number of the business.
- (4) The address, and a legal description of the parcel of land on which the business is to be located.
- (5) The date on which the owner acquired the business for which the permit is sought and the date on which the business began operations or intends to be in operations as a sexually oriented business at the location for which the permit is sought.
- (6) The name and street address (and mailing address, if different) and valid state driver's license number or identification card number of the applicant's spouse, if applicable.

(C) The application shall be accompanied by the following:

- (1) A certified copy of the assumed name certificate filed in compliance with the Assumed Business or professional Name Act (Chapter 36, Texas Business and commerce Code) if the business is to be operated under an assumed name.
- (2) If the business is a Texas corporation, a copy of the articles of incorporation, with all amendments thereto, certified by the Secretary of State.
- (3) If the business is a foreign corporation, a copy of the certificate of authority to transact business, in this state, with all amendments thereto, certified by the Secretary of State.
- (4) If the business is a limited partnership formed under the laws of Texas, a copy of the certificate of limited partnership, with all amendments thereto, certified by the Secretary of State.
- (5) If the business is a foreign limited partnership, a copy of the certificate of limited partnership and the qualification documents, with all amendments thereto certified by the Secretary of State.
- (6) A copy of a valid Texas driver's license or identification card of the applicant.
- (7) Any of items (1) through (6) above, shall not be required for a renewal application if the applicant states that the documents previously furnished the Chief of Police with the original application or previous renewals thereof remain correct and current.
- (8) A diagram of the premises showing a plan thereof, specifying the manager's station location(s), if applicable, which designates the portions of the premises in which patrons will not be permitted. Each diagram should be oriented towards the north or to a designated street. The diagram shall be drawn to a designated scale.

(D) The application shall contain a statement under oath that:

- (1) The applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct.

- (2) The applicant has read the provisions of this chapter regarding sexually oriented businesses.
- (E) The application shall be signed by all the owners.
- (F) A separate application and permit shall be required for each business location and for each type of sexually oriented business.
- (G) The fee for an original or transfer application is five hundred dollars (\$500.00). The fee for a renewal application is three hundred twenty-five dollars (\$325.00). The fee for a reinspection of the premises is one hundred seventy-five dollars (\$175.00). Payment shall be by certified check, cashier's check or money order. The fee shall be paid in full at the time of application and is not refundable.

Sec. 24-20. Term and renewal of permit.

- (A) Each permit shall be valid for a period of one (1) year and shall expire on the anniversary of its date of issuance unless sooner revoked or surrendered. Each permit shall be subject to renewal as of its expiration date by the filing of a renewal application with the Chief of Police. Renewal applications will be filed at least thirty (30) days, but not more than ninety (90) days, prior to the expiration of the permit that is to be renewed. If the permit has been revoked by the revocation is in abatement in accordance with Section 24-24 (C), then the application may be submitted within ten (10) days following the receipt of the written notice of the City Manager's final action on the appeal.
- (B) A permit is valid only at the premises for which it is issued.
- (C) A person commits an offense if that person counterfeits, forges, changes, defaces or alters a permit.
- (D) A permit may be canceled upon written request of the owner and/or the surrender of the actual permit to the Chief of Police.

Sec. 24-21. Issuance or denial of permit.

- (A) Within thirty (30) days of receipt of any application, either original, renewal or transfer, the Chief of Police shall grant or deny the requested permit and give written notice to the applicant as to the decision. In the event that the Chief of Police determines that an applicant is not eligible for a permit, the notice shall include the reasons for the denial of the permit.
- (B) The Chief of Police shall issue a permit to the applicant unless one (1) or more of the following conditions exist:
 - (1) The applicant's sexually oriented business is located in violation of the provisions of section 24-4 of this chapter.
 - (2) The applicant failed to supply all of the information required on the application by Section 24-19.

- (3) The applicant gave fraudulent or untruthful information on the application. This part does not apply to clerical errors.
- (4) The application or the business does not meet any other requirement of this chapter.
- (5) The applicant has been convicted of a felony for which less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, or a misdemeanor for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, of a crime in any state involving:
 - (a.) Public lewdness, indecent exposure or indecency with a child as described in Chapter 21 of the Texas Penal Code;
 - (b.) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal code;
 - (c.) Prohibited sexual conduct, enticing a child, harboring a runaway child or sale or purchase of a child as described in Chapter 25 of the Texas Penal Code;
 - (d.) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution or display of harmful material to a minor, sexual performance by a child, employment harmful to children, or possession or promotion of child pornography as described in Chapter 43 of the Texas Penal Code.
 - (e.) Facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses; or
 - (f.) Any similar offenses to those described above under the criminal or penal code of another state.
- (C) Property uses and distances for original applications shall be determined as of the time that the application is filed. If a renewal or transfer application is timely filed, the property uses and measurements for the renewal or transfer application shall be determined as of the time that the original application for the business was filed. If not timely filed, renewal applications shall be treated in the same manner in all respects as original applications.

Sec. 24-22. Permit transfers.

- (A) A permit is personal to the owner designated in the application. A permit may be transferred pursuant to this section. A transfer application must be filed within thirty (30) days of any change of owner designated on the current permit. A transfer application shall allow the continuation of business under an existing permit while a new application is being processed. Any transfer application shall require and be treated in all respects as an original permit application. In the event that a transfer application is not timely filed, then the existing permit shall be invalid for any purpose relating to the operation of the business. Provided,

however, that nothing in this section shall affect the nonconforming use provisions of Section 24-6.

- (B) Transfer applications shall be filed on the same form and in the same place and at the same times as original applications and the fee shall be payable in the same manner as for original application.
- (C) Transfers shall be reviewed, issued and subject to appeal in the same manner as original application. The permit will be issued for one (1) year.

Sec. 24-23. Revocation of permit.

- (A) The Chief of Police shall have the authority to revoke a permit for any one (1) or more of the following reasons:
 - (1) The permittee has been convicted of any of the following offenses during the permit period:
 - (a) Public lewdness, indecent exposure or indecency with a child as described in Chapter 21 of the Texas Penal Code;
 - (b) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
 - (c) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in Chapter 25 of the Texas Penal Code;
 - (d) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution or display of harmful material to a minor, sexual performance by a child, employment harmful to children or possession or promotion of child pornography as described in Chapter 43 of the Texas Penal Code;
 - (e) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
 - (f) Any similar offenses to those described above under the criminal or penal code of another state.
 - (2) The permittee of the permitted business gave materially false or fraudulent information on the original, renewal or transfer application form.
 - (3) That the permit was not issued in accordance with the criteria contained in this chapter.
- (B) Prior to revocation of a permit, the Chief of Police shall conduct an investigation to determine whether the permit should be revoked. If the Chief of Police determines the permit should be revoked, the Chief of Police shall notify the owner in writing that the permit is revoked and the reasons for the revocation.

- (C) The revocation shall commence on the day after the time to file an appeal with the City Manager under Section 24-24 (B) has expired. In the case of such appeal, the revocation is abated in accordance with Section 24-24 (C) until the City Manager's written notice of final action on appeal required by Section 24-24 (B) is delivered to the permittee.
- (D) The fact that a permit has been renewed shall have no effect on the revocation of the permit.
- (E) When the Chief of Police revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If the permit was revoked under Subsection 24-23 (A)(3), an applicant may be granted a permit at such time as the applicant complies with the requirements of this chapter.

Sec. 24-24. Appeal.

- (A) If the Chief of Police denies the issuance or renewal of a permit or revokes a permit, the Chief of Police shall notify the applicant or permittee, by certified mail, return receipt requested, of the action and the right to an appeal.
- (B) Upon receipt of written notice of the denial or revocation of a permit, the applicant or permittee whose application for a permit or permit renewal has been denied or whose permit has been revoked has the right to appeal to the City Manager or a state district court. An appeal to the City Manager must be filed with the City Secretary within ten (10) days after the receipt of the notice of the decision of the Chief of Police. The City Manager shall appoint a neutral person as hearing official who will hear the appeal within ten (10) days of receipt of the appeal by the City Secretary. The hearing official shall determine whether a preponderance of the evidence supports the denial or revocation. The City Manager shall notify the applicant or permittee, by certified mail, return receipt requested, of the hearing official's action within fifteen (15) days of receipt of the appeal by the City Secretary. The notice shall advise the applicant or permittee of his or her right to appeal to a state district court. An appeal to the state district court must be filed within thirty (30) days after the receipt of the notice of the denial or revocation of a permit by the Chief of Police or within thirty (30) days after the receipt of the notice of the decision of the City Manager. The applicant or permittee shall bear the burden of proof in court.
- (C) The appeal of a revocation of a permit to the City Manager shall abate the revocation of the permit until such time as the City Manager notifies the owner of his or her final decision.
- (D) The appeal of a revocation of a permit to state district court shall not abate the revocation of the permit. [Chapter 24 was added to Code of Ordinances by Ord 01-09, August 20

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Index

- access drive, 260
- Access Easement, 260
- ad valorem taxes, 166
- adopted, 34, 38
- adoption of statute, 3
- Adornments, 100
- Adult cabarets/adult lounges, 296
- adult modeling studio, 295
- Adult motel, 284
- Adult motels, 295
- Adult novelty shop, 284
- airborne craft, 113
- airborne pollutants, 99
- aircraft, 113
- aircraft general nuisance, 114
- aircraft Prohibitions on landing and operating., 113
- aircraft ultra light, 113
- airguns, 109
- alarm system, 58
- alcoholic beverage, 98
- alcoholic beverage permit, 98
- alleged violation, 100
- alley, 2, 113, 173, 184, 260
- altered, 100
- American Wood Preservers Association Standard, 35
- Amusement parks, 200
- Amusement Redemption Machine, 103
- Amusement Redemption Machine Establishment, 231
- Amusement Redemption Machine establishment supervisor, 105
- Amusement Redemption Machine Premise, 103
- Amusement Redemption Machine Premise or Establishment License fee, 105
- Amusement Redemption Machine supervisor, 106
- Antique Auto, 67
- antique vehicles, 67
- Volunteer Fire Fighters' Force authority to terminate, 60
- appeal, 91, 94
- appeal to the board of adjustment, 224
- applicant, 34, 96, 100
- applicant building permit, 37
- application, 31, 96
- arrest, 6, 56, 114
- arrest failure to appear, 114
- arrest offense, 114
- arrest shall be assessed a special expense, 114
- arrest under Section 38.11, Penal Code, 114
- arson, 56
- arson reward, 56
- artwork, 100
- Assessment, 64
- Assessment of expenses against property, 64
- association, 2, 85
- Attorney General of the State of Texas, 162
- authority, 51
- authorized emergency vehicles, 173
- avenue, 2
- balconies, 37
- barbecue pit**, 57
- BARKING DOGS**, 27
- Base Retail Price, 100, 101
- Bayfront Zone, 201
- Beach Access plan, 257
- beach access route, 243
- Beach and Dune Protection Permit, 245, 252, 254
- beaches, 126
- beaches Vehicles prohibited on, 170
- beams, 36, 184
- Board, 1, 49, 50, 53, 59, 134, 161, 162, 166
- Board of Adjustments, 30
- Board of Adjustments and Appeals, 40
- Board of Ethics, 11
- Board of Trustees of the TMRS, 53, 54
- bodily injuries, 31
- bond, 33
- boundary, 183
- brick veneer, 36
- Building, 32, 34, 181, 182
- Building and Zoning Codes of the City, 126
- Building Code, 29, 40
- Building Code for Windstorm Resistant Construction, 31
- Building Code hazard to the health, 30
- Building Code safety of the citizens, 30
- Building Department, 99, 161
- Building Inspector, 1, 29, 32, 33, 34, 37, 40, 99, 160, 161, 163
- Building Inspector to issue citations, 34
- Building Official, 32, 40, 60
- building permit, 29, 33
- building permit, 37
- Buildings, 60, 167
- bulkhead, 162
- burden of proof, 93
- business establishment, 65
- cable communications, 179
- cable communications franchise, 179
- Cablevision Associates V, 179
- calendar month, 2
- calendar year, 2
- Cameron County, 1
- camp Prohibited upon private property, 113
- camp Prohibited upon street, 113
- campfire, 56
- Camping**, 112
- campsite, 113
- cancellation, 95
- carion, 61
- catchlines, 2
- cats, 25
- ceiling joists, 36
- Central Business District, 118
- Central Power and Light Company, 179
- certificate, 88
- Certificate of Occupancy, 37
- certifying, 98
- Chairman, 40
- chauffeured motor vehicle, 85
- Chief Administrative Officer, 1
- Chief of Police, 68, 70, 90, 133, 170
- citations, 34

City, 2, 30, 33, 34, 35, 38, 40, 48, 49, 51, 52, 53, 54, 56, 57,
 59, 62, 63, 69, 85, 86, 88, 98, 109, 113, 114, 126, 133,
 134, 160, 162, 166, 170, 179, 262
 City Attorney, 49, 162
 City Council, 1, 8, 30, 40, 49, 50, 56, 59, 76, 91, 92, 94, 96,
 103, 113, 114, 126, 161, 166
 City Hall, 113
 City Health Officer, 87
 City Manager, 1, 8, 32, 48, 55, 59, 64, 113, 133
 City of South Padre Island, 1, 2, 3, 100, 101, 102, 103, 114,
 126, 218
 City Official, 133
 City organization, 3
 City Secretary, 3, 7, 31, 48, 52, 53, 54, 56, 86, 88, 93, 94,
 95, 98, 100, 101, 173
 City Secretary, 88
 City treasury, 114
 City's General Fund, 133
 Cityhouse, 38
 Cityhouse construction, 38
 Cityhouse requirements, 38
 claim
 Refusal of, 5
 claim authority to waive, 5
 claim for property damage, 4
 claim written notice required, 5
 claimant, 5
 Code, 1, 40, 55, 162
 Code Authority of city, 1
 code exceptions, 30
 Code of Ethics, 11
 Code of Ordinances, 1
 Code of the City, 51
 cogent, 93
 commercial activity, 126
 commercial buildings, 60
 Commercial Parking, 196
 commercial structures, 40
 commission, 2, 260
 commission of the City of South Padre Island, 2
 commissioners' court, 52
 compact parking, 201
 compensation, 4, 59
 complaint, 6
 compliance, 31, 90
 Comprehensive Plan, 204
Computation of Time, 1
 notice is required, 1
 concessionaire, 218
 concrete, 35
 concrete columns, 35
 concrete pilings, 35
 concrete Reinforced, 35
 consideration, 167
 Constitution of the United States, 51
 construction, 29, 30, 32, 33, 34, 37, 38, 60
 consummated, 100
 contractor, 31
 conversion, 34
 conviction, 56
 convincing evidence, 93
 corporate limits, 35, 98
 corporate seal, 3
 corporation, 2, 31, 85, 98, 100, 101, 167
 corrosion, 34

Council Member, 52
 Council members, 3
 county, 1
 county clerk, 52, 64
 county judge, 52
 court, 58
 court competent jurisdiction, 58
Critical Dune, 242
CRYING CATS, 27
 cul-de-sac, 162, 260
 cul-de-sac improving, 162
 cul-de-sac Plans required, 162
 cul-de-sac required to pave, 162
 cul-de-sac requirements of landscaping, 162
 custodian of the corporate seal, 3
 custom fabricated garment, 100
 Custom Garment Fabrication Business, 100, 101
 custom garment fabrication business Application for
 License, 100
 custom garment fabrication business fees, 100
 custom garment fabrication business Full Purchase Price,
 100
 custom garment fabrication business provisions, 100
 Custom Garment Fabrication Material, 100, 102
 Custom Garment Fabrication Service, 100, 102
 Custom Garment Fabrication Service application, 100
 customer, 100
 damage, 4, 33, 135
 date of birth, 88
 Dead-end street, 260
 debris, 135
 decals, 100
 defacing prohibited, 173
 defined, 34
 Definitions, 1, 67, 85, 99, 167, 180
 Demolition, 32, 33
 designs, 100
 destination, 87
 destruction of property, 31
 determine the zoning district, 186
 Development Plan Review Board, 37, 41, 42, 138, 139,
 142, 152, 154, 155, 157, 158
 Development Standards Review Review Task Force, 150
 Director, 49
 discharge of a firearm, 109
 District "B-2", 193
 documentation, 101
 dogs, 21
 dogs certificate of vaccination, 22
 dogs fail to redeem, 24
 dogs right to redeem, 24
 driver, 85
 driver's license, 95
 dry standpipe system, 60
 DUNE PROTECTION, 242, 247, 251, 254
 Dune Protection Line, 242, 243, 247
 dwelling, 37, 191
 easement, 261
 Editor's Note, 180
 election, 4, 52
 electric service, 38
 electric service service disconnect equipment, 39
 electrical conductors, 38
 electrical contractor, 39
 electrical outlets, 37

electrical wiring, 40
 electricity, 166
 elevators, 30
 emergency, 172
 emergency management, 48, 49, 50
 Emergency Management Coordinator, 49
 Emergency Management Director, 48
 Emergency Management Director authority and responsibility, 48
 Emergency Management Director Coordinator, 48
 Emergency Management Director of the City, 48
 Emergency Management Director organization, 48
 Emergency Management organization, 50
 emergency management plan, 49
 emergency vehicle, 172
 emergency vehicle exemptions, 172
 employee, 53, 54, 69
 enforcement, 50
 engineer, 261
 Entertainment District Core Zone, 202
 erection, 29
 erection of a temporary structure, 112
 erection of any type of structure, 29
 erection tent, 112
 erosion, 135
 erosion correction, 135
 erosion storm damage, 135
 escort agency, 294
 excavation, 33, 161
 excavation appeal, 161
 excavation Application for permit, 160
 Extraterritorial Jurisdiction, 169, 260
 extraterritorial jurisdiction (ETJ), 261
 extraterritorial jurisdiction, hotel tax, 169
 factory-built fireplaces, 37
 false alarms, 57, 58
 family dwellings, 35
Feasibility standard, 86, 91, 92
 Federal Aviation Administration, 113
 Federal Emergency Management Agency, 30
 Federal Employer Identification Number, 101
Fee Schedule, 12
 fees, sign permit, 156
 filing date, 261
 Finance Department, 168
 financial responsibility, 93
 fire alarm, 172
 fire alarm system, 58
 Fire Chief, 57
 Fire Chief, 58, 59, 60
 Fire Department, 59, 170
 fire department may direct traffic, 170
 fire protection, 38
 firearms, 109
 firecrackers, 56
 fireplace, 57
 fireworks, 56
 fireworks display, 56
 firm, 2, 85, 100, 101
 fiscal year, 9
 food service establishment correction of the violations, 77
 food service establishment disease transmission, 79
 food service establishment inspection report form, 77
 food service establishment Pre-operations Inspection, 79

food service establishment Restriction of the employee's services, 79
 food service establishment Submission of Plans, 79
 Food Services Board of Appeals, 76
 foredune line, 247
 foredunes, 243
 Fowl, 21
 gambling paraphernalia, 133
 Garbage, 61
garbage container Sanitation maintenance required, 66
 Garment, 100, 101
 gas, 166
 gender, 2
 general fund of the City, 4, 56
 General Land Office of the State of Texas, 244
GENERAL PROVISIONS, 1
 general public, 100
glare standards, 122
 golf carts, 176
 Government Code, 53
Graffiti, 118, 119, 120, 121
 Guardrails, 37
 Gulf Boulevard, 163
 gypsum board, 36
 hearing, 96
 Heritage Cablevision, 179
 high water, 135
 highway, 2, 173
 Historic Building Line, 244
Hotel, 167
 Hotels/Motels, 207
 How Code designated, 1
 hurricanes, 135
 Illegal signs, 144
 impersonation unlawful, 50
 impound, 23
 Impound Lot, 198
 infrastructure, 261
 Injunctions, 79
 injury, 4
 In-Lieu Parking Fee Option, 195
 insurance, 95
 insurance company, 95
 insurance coverage, 95
 Interior paneling, 37
 Judge may be removed, 7
 Judge oath of office, 6
 Judge of the municipal court, 114
 junked motor vehicles, 133
JUNKED VEHICLES, 67, 68
 JUNKED VEHICLES Exceptions, 69
 JUNKED VEHICLES Notice to owner, 68
 JUNKED VEHICLES nuisance, 68
 JUNKED VEHICLES proceeds of sale, 70
 JUNKED VEHICLES removal, 70
 JUNKED VEHICLES sale, 70
 JUNKED VEHICLES scrapping, 70
 JUNKED VEHICLES Texas Abandoned Motor Vehicle Act, 70
 JUNKED VEHICLES unlawful, 68
 Laguna Heights, 94
 Laguna Vista, 94
 Landscaping, 138, 151, 183, 225, 226
 law enforcement officer, 109
 legal defense, 8

legal defense City will indemnify, 8
 legal defense of an official or board, 8
 length of time, 1
 liability insurance, 31, 94, 95
 license, 86, 87, 101
 license fee, 90
 license pursuant, 94
 licensed master, 29
 licensee, 87, 94, 95
 lien, 64
LIGHTING, 122
 limousine, 85
 Linen cabinets, 221
 litter, 61
 Littering, 61
 Livestock, 21
 Local Government Code, 1
 Local Sales and Use Tax Act, 166
 logbook, 94
 logos, 86
 loitering, 115
 lot, 261
 luminaires, 123
 magistrate, 133
 manager, 100
 manifest intent of the City Council, 1
 masonry, 36
 Master Flood Hazard Prevention Ordinance, 30
 maximum price, 100
 may, 261
 Mayor, 3, 49, 52, 64, 167, 170
 minimum wake, 115
 Mixed Use Structure, 199
 Mobile Equipment - Definition, 217
 motels, 60
 motor vehicle, 67
 multi-family residential, 60
 municipal affairs, 52
 Municipal Court, 7, 34
 Municipal Court Judge of, 6
 Municipal Court of the City, 6
 Municipal Judge, 68
 Municipal Judge of the City, 68
 Municipal Retirement System, 53
 municipality, 3, 53
 Municipality Current Service Accumulation Fund, 53
 municipality of South Padre Island, 3
 National Electrical Code, 38
 Neighborhood Crossing Zone, 202
 Neighborhood Transition Zone, 204
 net area, 261
 newspaper, 2
 nitrous oxide, 117
No Parking Zones, 114
 No Smoking, 82, 83
Non-Conforming Signs, 157
 non-conforming use, 219, 220
 non-conforming uses, 219
 non-profit establishment, 183
 Non-rubber wheeled vehicles, 162
 notarized, 89
 Notice, 63
 Notice Method, 64
 Notice Non-compliance, 63
 notice of default, 114

occupancy, 37, 167
 occupant, 37, 167
 office of mayor, 4
 offices, 60
 official newspaper, 2
 official paper, 3
 Off-Premise signs, 144
 Open Container, 118
 operator, 94
 Operators, 87
 Ordinance, 4, 99, 172
 Ordinances and Resolutions, 1
 Ordinances and Resolutions approved by a majority, 4
 Ordinances and Resolutions must be published, 4
 Ordinances and Resolutions must be read, 4
Outdoor displays, 126, 218
 Outdoor displays Regulations and Requirements, 126, 218
 owner, 2, 85
 Padre Beach Section XII concrete construction, 189
 Padre Boulevard, 171, 176
 Padre Boulevard and Entertainment District Code, 204
 Padre Boulevard Central Character Zone, 204
 Padre Boulevard North Zone, 203
 Padre Boulevard South Zone, 203
 Park District, 212
 Park Road 100, 171, 176
 Parking, 174
 partnership, 2, 85, 101
 payment, 100
 peace officer, 109
 pedestrians, 170
Penalty Provisions, 241
Penalty Provisions, signs, 159
 permit, 98, 99
 Permit, 31
 Permit Fees, 31
 person, 2, 33, 50, 85, 100, 101, 167, 261
 personal bond, 114
 personal identification, 9
 fee, 9
 issued by the Police Department, 9
 personal injuries, 95
 personal injury, 5
 personal property, 133
 personal property abandoned, 133
 personal property may be sold, 133
 personal property owner's right, 134
 personal property public auction, 133
 personal property unclaimed, 133
 Personnel Policies Manual, 59
 Personnel Policies Manual, 55
 Piling, 35
 pistols, 109
 place of birth, 88
 Planned Development District, 183, 227, 228
 Planning and Zoning Commission, 266
 Planning Department, 266
Plastic Bags, 124
 platted boundaries, 134
 Plumbing Code, 30
 plumbing outlets, 37
 plural number, 2
 Plywood, 36
 point of sale, 102
 Police Department, 5, 67, 69, 93, 102, 170

Police Department arrest, 6
 Police Department authorized to direct all traffic, 170
 Police Department Board shall set the compensation, 6
 Police Department City Manager shall appoint, 6
 Political signs, 156
 Porches, 37
 Port Isabel, 93
 Port Isabel-South Padre Press, 3
 possession, 167
 prior service, 53
 Prior Service Credit, 53
 private property, 113
 privileged lien, 64
 procedure, 40
 proceedings, 40
 prohibited weapons, 133
 prohibition, 170
Prohibition of Smoking, 83
 property, 33, 37
 property damage,, 5
 Property Tax Code, 166
 Property Tax Code assessment, 166
 Property Tax Code collection, 166
 Property Tax Code imposed by the City, 166
 proprietorship, 101
 protection, 95
 public beaches, 113
 public convenience, 92, 93
 public hearing, 68, 92, 93
 Public Works Department-Service Division, 173
 Public Works Director, 281
 publication of legal notices, 3
 purchase, 102
 purchase price, 100
Quarterly period, 167
 Quorum, 76
 Railroad Commission and Interstate Commerce
 Commission, 85
 raised floor surfaces, 37
 rate zones, 93, 94
 rates and levies, 166
 rates and levies by resolution, 166
 rates and levies established, 167
 rates and levies in compliance with State law, 166
 rates and levies specific exemptions, 166
 rates Electric power, 179
REAL PROPERTY, 134
 real property erosion, 134
 real property erosion hazard to the City, 134
 real property must be restored, 134
 rebar, 35, 36
 receivers, 2
 Receptacles, 65
 recognized events, 157
 Records Management, 10
 Recreational Vehicles, 215, 216
Reduction of Required Parking, 227
 refuse, 56
 reimbursement, 4
 reinspection, 32
Removal of garbage, 66
 Removal of garbage franchise granted, 66
 Removal of garbage Franchise required, 66
 renovation, 38
 renovation, 34
 Replacement, 90
 requirements, 38
Residential & Multi-family Dwelling District, 193
 Residential lighting, 123
 Resort area district, 205
 restaurants, 60
 resubdivision, 261
 retail, 100
 retail sale, 126
 retaining wall/walkway maintenance, 249
 Revocation, 102
 rifles, 109
 right-of-way, 29, 31, 68, 113, 126, 160, 163, 261
 right-of-way Appeal from denial., 161
 right-of-way excavation, 160
 right-of-way permit, 160, 161
 right-of-way Restoration, 161
 road, 113
 roadways, 31
 rodent harborage, 43
 roman candles, 56
 Roof Construction:, 36
 Roof decking, 36
 roof spans, 36
Room Occupancy Tax, 168
 rubbish, 62
 Safety Responsibility Act, 95
 safety zone, 174
 salary, 8
 of the City Manager, 8
 sales slips, 103
 sales tax, 102
 Sales Tax Certificate, 101
 sandblasting, 99
 sandblasting prohibited, 99
 sanitary sewer facilities, 113, 126
 Sanitation Official, 64
 schedule, 31, 35
SCHEDULE OF PERMIT FEES, 31
 screening device, 211
 seal, 3
 seawall, 163
 septic tanks, 274
 service disconnect equipment, 39
 service retirement, 54
 Sewers, 274
 sexually oriented businesses, 283, 288, 289, 293, 299
 shall, 261
 Shoreline Task Force, 246
 shotguns, 109
 shuttle, 96
 sign definitions, 136
 sign permit, 142
 sign permit assignable, 143
 sign regulations, 136
Sign Standard, 146
 signals, 173
 signs, 173
Signs Exempt, 155
Signs Prohibited, 144
 Sills, 36
 single-family dwellings, 212
 singular number, 2
 skyrockets, 56
 sleeping accommodations, 167

smoke detector, 37
SMOKING, 80, 83
Smoking in Public Places, 83
 Social Security Number, 101
 South Padre Island, 37, 57, 93
 Southwestern Bell Telephone Company, 179
 Special Building Provisions, 60
 Special Events period, 249
 Special Expense, 114
Special Interest Vehicle, 67
 special meeting, 4
 Specific Use Permits, 230
 Speed limits, 170
 Board may alter, 171
 Speed limits exceptions granted, 172
 Speed limits exceptions granted authorized emergency vehicle, 172
 Speed limits potential hazards, 170
 Speed limits Specific limits established, 57, 171
 standard, 34, 38
 Standard Building Code, 30, 31, 34, 37, 57
Standard of Care for Emergency Action., 9
 standard stories, 199
 state, 2, 48
 State Board of Insurance Commissioners, 94
 State Department of Public Safety, 170
 State Division of Emergency Management of the State of Texas, 49
 State Law, 52, 166
 State of Texas, 2, 51, 94, 172, 180
 state vehicle inspection, 87
 stop-work order, 29
 street, 2, 31, 113, 160, 173, 180, 261
 stringers, 36
 Structure, 32, 34, 36, 38, 39, 40, 57, 58
 stucco, 36
 Subdivider, 262
 subdivision, 9, 71, 139, 145, 148, 151, 173, 188, 230, 259, 260, 261, 262, 263, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 279, 287
 suit, 58
 supersede, 38
 Supplemental Benefits Fund of the TMRS, 54
 Supplemental Death Benefits Fund of the TMRS, 54
 Supports, 36
 sureties, 33
 surveyor, 262
TABLE 15-3, signs, 156
Tax assessor-collector, 167
 tax Collection of, 167
 tax liens, 64
 tax purposes, 169
 tax reimbursement, 168
 tax Room Occupancy Tax - Criminal Penalty, 169
 taxi stands, 93
 taxicab, 85, 87, 88, 95, 96
 TAXICAB State of Texas, 96
TAXICABS, 85, 86
 TAXICABS color schemes, 86
 TAXICABS convictions, 89
 TAXICABS denial of the application, 91
 TAXICABS driver's license number, 89
 TAXICABS feasibility standard, 91
 TAXICABS feasibility standard amended, 92
TAXICABS License renewal, 90
 TAXICABS mental handicaps, 89
 TAXICABS necessity and convenience, 92
 TAXICABS operators of, 87
 TAXICABS passengers, 87
 TAXICABS public hearing, 92
 TAXICABS rate schedule, 94
 TAXICABS solicit patrons, 88
 TAXICABS State of Texas, 91
 TAXICABS taxicab license, 92
 TAXICABS taxicab stand, 87
 TAXICABS Texas Class C, 89
 TAXICABS traffic offenses, 89
 telephone facilities, 179
 temporary structure, 112, 217, 218
 terminated, 99
 Texas Abandoned Motor Vehicle Act, 70
 Texas Alcoholic Beverage Commission, 98
 Texas Alcoholic Beverage Commission Agent's, 98
 Texas Alcoholic Beverage Commission Carrier's, 98
 Texas Alcoholic Beverage Commission Class B Winery Permits, 98
 Texas Alcoholic Beverage Commission Industrial, 98
 Texas Alcoholic Beverage Commission late-hour permits, 98
 Texas Alcoholic Beverage Commission Local Cartage, 98
 Texas Alcoholic Beverage Commission Mixed Beverage Permits, 98
 Texas Alcoholic Beverage Commission Private Carrier's, 98
 Texas Alcoholic Beverage Commission State fee, 98
 Texas Alcoholic Beverage Commission Storage Permits, 98
 Texas Alcoholic Beverage Commission Wine and Beer Retailer's Permits, 98
 Texas Catastrophe Property Insurance Association, 31
 Texas Certificate of Title Act, 67
 Texas Class C, 95
 Texas Highway Department, 70
 Texas Manual on Uniform Traffic Control Devices for Streets and Highways, 171
 TAXICABS passengers' exclusive right; to the full and free use of the passenger compartment, and it shall be unlawful for the licensee or driver of any taxicab to solicit to carry additional TAXICABS passengers, 87
 Timber, 35
 To camp, 112
 Town Center Crossing Zone, 203
 trade name, 86
 traffic control devices, 171
 traffic regulations, 170
 trash, 56, 61
 treated timber, 35
 trustees, 2
 ultra light aircraft, 113
 Unauthorized devices
 prohibited, 173
 Unauthorized devices, 173
 Underground Utilities, 179
 Underwriters Laboratories Inc., 39
 Uniform Act Regulating Traffic on Highways, 114, 170
 United States, 101, 172
 unlicensed motor vehicle, 44
 Unsafe Building, 32
 Urban Design Model, 232
 Utilities, 262

- Utility Easement, 262
- utility structure, 114
- vacant property, 126
- vacant property Prohibition of Business and Commercial Activity Thereon, 126
- VARIANCES AND APPEALS, 223**
- vehicle, 127
- vehicle Prohibition of Business Activity Thereon, 126
- vehicle transfer fee, 90
- violation, 58
- Volunteer Fire Fighters' Force, 59
- waiver, 5
- wall or fence, 212, 215
- watercraft, 115
- wave action, 135
- weather elements, 34
- weeds, 62
- windstorms, 135
- womanized lumber, 36
- wood exterior walls, 36
- wreckage, 135
- year, 2
- ZONING, 180**
 - City, 180
 - ZONING Accessory buildings, 187
 - ZONING adoption of statute, 180
 - ZONING Alley, 180
 - ZONING alleys, 187
 - ZONING Alteration, 180
 - ZONING amusement center, 180, 201
 - ZONING apartment, 181
 - ZONING Apartment house, 181
 - ZONING Area of building, 188
 - ZONING Area of lot, 188
 - Depth of lot, 188
 - Width of lot, 188
 - ZONING Area regulations, 189, 199, 205
 - ZONING balconies, 190
 - ZONING Beach, 220, 225
 - ZONING beer taverns, 205
 - ZONING boat docks, 205
 - ZONING bowling alleys, 205
 - ZONING building, 181, 185, 221
 - ZONING building accessory use, 180
 - ZONING building Certificate of occupancy, 221
 - ZONING Building Inspector, 190
 - ZONING building restoration of, 219
 - ZONING City, 181, 186, 225
 - ZONING City Council, 187, 225
 - ZONING City of South Padre Island Zoning Ordinance, 180
 - ZONING Cityhouse, 185, 191
 - ZONING Clinics, 191
 - ZONING Coin operated laundries, 181
 - ZONING Condominium, 181
 - ZONING Convenience storage facilities, 181
 - ZONING corporations, 181
 - ZONING cottages, 205
 - Weekend, 205
 - ZONING Customary home occupations, 181
 - ZONING Customary home occupations dressmaking, 181
 - ZONING Customary home occupations millinery, 181
 - ZONING Customary home occupations washing and ironing, 181
 - ZONING dance halls, 205

- ZONING Depth of Lot, 181
- ZONING Depth of Rear Yard, 181
- ZONING District, 181, 187, 188, 196, 205
- ZONING District "B", 189
- ZONING district map, 186
- ZONING Districts, 186
- ZONING drilling, 215
- ZONING Dwelling, 181, 185, 187, 188, 205
 - Multiple Family, 181
 - One-Family, 181
- ZONING dwelling Incidental uses, 189
- ZONING dwelling Single family, 199
- ZONING dwelling single-family, 185
- ZONING dwelling Two-Family, 181
- ZONING erected parking garage, 192
- ZONING erected structure, 192
- ZONING excavation, 221
- ZONING Family, 182
- ZONING fences, 214
- ZONING Field offices, 187
- ZONING Fire Zone, 196
- ZONING fraternities, 189
- ZONING Front Yard, 182, 188, 199
- ZONING Garage, 182
- ZONING garbage container, 182
- ZONING Gross Floor Area, 182
- ZONING Gulf Boulevard, 190
- ZONING height, 182
- ZONING Height regulations, 188, 189, 199
- ZONING Hospitals, 191
- ZONING Hotels, 182, 191
- ZONING individuals, 181
- ZONING Institution, 183
- ZONING Lighting, 206
- ZONING Lot, 183, 191
- ZONING Lot Corner, 183
- ZONING Lot Front line, 183
- ZONING Lot Lines, 183
- ZONING Lot Rear Line, 183
- ZONING lots, 199, 206
- Zoning Low Density Residential-District E, 212**
- Zoning Map, 37
- ZONING marine repairs, 205
- ZONING miniature golf, 205
- ZONING Motels, 182, 191
- ZONING multi-family dwellings, 189
- ZONING Nightclub, 183, 199
- ZONING Non-Conforming Uses, 183
- ZONING non-conforming uses Continuance of, 219
- ZONING non-conforming uses Future, 219
- ZONING office buildings, 200
- ZONING off-street parking, 191, 199
- ZONING Open Spaces, 183
- ZONING Padre Beach Section XII, 189, 191
- ZONING Padre Beach Section XII Type of construction, 189
- ZONING Padre Beach Subdivision, 190
- ZONING parking, 188
 - regulations, 191
- ZONING parking regulations, 188, 199, 205
- ZONING parking Uses affecting, 221
- ZONING person, 183
- ZONING Planning and Zoning Commission, 225
- ZONING Planning and Zoning Commission Public hearing required, 225

ZONING Planning and Zoning Commission Submission of changes to, 225

ZONING Private clubs, 189, 191

ZONING provisions of Chapter 283, 180

ZONING public parks, 225

ZONING Public Service Facility, 184

ZONING Rear Yard, 184, 199

ZONING Rear yards, 188, 190

ZONING Recreational Center, 184

ZONING residence, 205

ZONING Restaurants, 199

zoning restrictions, 93

ZONING retail bait stands, 205

ZONING Retail stores, 200

ZONING Sanitation, 188

ZONING Schools, 191

ZONING second-hand stores, 205

ZONING setback, 199

Special regulations and uses, 220

ZONING setback requirements, 220

ZONING sewage disposal, 188

ZONING Side Yard, 184

ZONING Side yards, 188, 190, 199

ZONING Single family dwellings, 189

ZONING Special area regulations, 214

ZONING State, 222

ZONING Story, 184

ZONING Street, 184

ZONING street Private, 206

ZONING street public, 206

ZONING streets, 187

ZONING Structural Alterations, 184

ZONING structure, 181, 190, 191

ZONING structure Size of, 191

ZONING subordinate building, 180

ZONING Temporary buildings, 187

ZONING Texas Alcoholic Beverage Commission, 183

ZONING Theaters, 199

ZONING trailer parks, 205

ZONING Travel Trailer park, 185, 206

ZONING variance, 225

ZONING vehicles, 182

ZONING Width of Side Yard, 185

ZONING yacht club, 205

ZONING Yard, 185

ZONING Zoning District Map, 186

ZONING Zoning Ordinance, 225

Zoning., 206