

# CHAPTER 1

## GENERAL PROVISIONS

### ARTICLE 1.01 CODE OF ORDINANCES<sup>i\*</sup>

#### **Sec. 1.01.001 Adoption**

There is hereby adopted the Code of Ordinances of the City of San Benito, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc. (Ordinance adopting Code)

#### **Sec. 1.01.002 Designation and citation of code**

The ordinances embraced in this chapter and the following chapters, articles and sections shall constitute and be designated the “Code of Ordinances, City of San Benito, Texas,” and may be so cited. (Ordinance adopting Code)

#### **Sec. 1.01.003 Catchlines of articles, divisions and sections**

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

**State law reference**—Headings of statutes, V.T.C.A., Government Code, sec. 311.024.

#### **Sec. 1.01.004 Definitions and rules of construction**

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

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

City and town. Each means the City of San Benito, Texas.

City manager, city secretary, chief of police or other city officers. The term “city manager,” “city secretary,” “chief of police” or other city officer or department shall be construed to mean the city manager, city secretary, chief of police or such other municipal officer or department, respectively, of the City of San Benito, Texas.

Commission. Whenever the term “commission” or “city commission” or “the commission” is used, it shall mean the city commission of the City of San Benito, Texas.

**State law reference**—References to municipal governing body and to members of municipal governing body, V.T.C.A., Local Government Code, sec. 21.002.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

**State law reference**—Computation of time, V.T.C.A., Government Code, sec. 311.014.

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

Delegation of authority. Whenever a provision of this Code of Ordinances requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize such officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision specifically designate otherwise.

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

**State law reference**—“Gender” defined, V.T.C.A., Government Code, sec. 312.003(c).

Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

**State law reference**—Grants of authority, V.T.C.A., Government Code, sec. 312.004.

May. The word “may” is permissive.

**State law reference**—Construction of word “may,” V.T.C.A., Government Code, sec. 311.016.

Month. The word “month” shall mean a calendar month.

**State law reference**—“Month” defined, V.T.C.A., Government Code, sec. 312.011.

Must and shall. Each is mandatory.

**State law reference**—Construction of words “must” and “shall,” V.T.C.A., Government Code, sec. 311.016.

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

**State law reference**—“Number,” V.T.C.A., Government Code, sec. 312.003(b).

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

**State law reference**–“Oath,” “swear” and “sworn” defined, V.T.C.A., Government Code, sec. 312.011.

Official time standard. Whenever certain hours are named in this code, they shall mean standard time or daylight saving time, as may be in current use in the city.

**State law reference**–Standard time, V.T.C.A., Government Code, sec. 312.016.

Or, and. The word “or” may be read “and,” and the word “and” may be read “or,” as 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, organizations, business trusts, estates, trusts, and bodies politic and corporate, as well as to individuals.

**State law reference**–“Person” defined, V.T.C.A., Government Code, sec. 311.005.

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

Property. The word “property” shall mean and include real and personal property.

**State law reference**–“Property” defined, V.T.C.A., Government Code, sec. 311.005.

Real property. The term “real property” shall mean and include lands, tenements and hereditaments.

Sidewalk. The word “sidewalk” shall mean that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

Signature or subscription. A signature or subscription shall include a mark when a person cannot write.

**State law reference**–“Signature” and “subscribe” defined, V.T.C.A., Government Code, sec. 312.011.

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

Street. The word “street” shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way, including the

entire right-of-way.

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

**State law reference**–“Tense,” V.T.C.A., Government Code, sec. 312.003(a).

V.T.C.S., V.T.P.C., V.T.C.C.P., V.T.C.A. Such abbreviations refer to the divisions of Vernon’s Texas Statutes Annotated.

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

**State law reference**–“Written” or “in writing” defined, V.T.C.A., Government Code, sec. 312.011.

Year. The word “year” shall mean a calendar year.

**State law reference**–“Year” defined, V.T.C.A., Government Code, sec. 312.011.

(Ordinance adopting Code)

#### **Sec. 1.01.005 Severability of parts of code**

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

**State law reference**–Severability of statutes, V.T.C.A., Government Code, sec. 312.013.

#### **Sec. 1.01.006 Repeal of ordinances**

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed. (Ordinance adopting Code)

**State law reference**–Effect of repeal of statutes, V.T.C.A., Government Code, sec. 311.030.

#### **Sec. 1.01.007 Amendments or additions to code**

All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the city commission for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article and section; provided, however, the failure to do so shall in no way affect the validity or enforceability of such ordinances.

(Ordinance adopting Code)

**Sec. 1.01.008      Supplementation of code**

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city commission. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

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

(Ordinance adopting Code)

**Sec. 1.01.009      General penalty for violations of code; continuing violations**

(a) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in this code or such

ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00).

(b) A fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse, may not exceed two thousand dollars (\$2,000.00).

(c) Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that does not exceed five hundred dollars (\$500.00) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that exceeds five hundred dollars (\$500.00) shall require a culpable mental state.

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

(e) Unless otherwise stated in this code or in any ordinance, each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

(f) In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Ordinance adopting Code)

**State law references**—Penalties for violations, V.T.C.A., Local Government Code, sec. 54.001; penalty for class C misdemeanor, V.T.C.A., Penal Code, sec. 12.23; requirement of culpability, V.T.C.A., Penal Code, sec. 6.02.

## ARTICLE 1.02 CITY COMMISSION

### Division 1. Generally

**Secs. 1.02.001–1.02.030**      **Reserved**

### Division 2. Meetings

**Sec. 1.02.031**      **Times; procedures**

(a) Regular meetings. The city commission shall meet in regular session at 6:30 p.m. on the first (1st) and third (3rd) Tuesdays of each month at city hall. If the Tuesday meeting date falls upon a legal holiday, the commission shall meet at said hour the following Tuesday night following such holiday, or any following day as deemed appropriate by the city commission.

(b) Called meetings. Special or emergency meetings may be called by the mayor or any two (2) city commissioners by written notice. In case of an emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened. In the event of an emergency meeting, the presiding officer or the members calling such meeting shall, if request therefor containing all pertinent information has previously been filed at the headquarters of the governmental body, give notice by telephone or telegraph to any news media. The city secretary shall see that written notice is left at the place of business or residence of each member of the commission, stating the time, place, date and purpose of the special or emergency meeting. After notice has been duly posted as required by law, the commission shall meet at the time and place designated and transact the business of the commission as posted on the notice of special called session.

(c) Order of procedure. The order of procedures shall follow the order of the agenda; however, the mayor or presiding officer, absent objection from any commissioner, shall have the authority to vary the order of procedure, in order to expedite the proceedings, provided that no person shall be denied their right to address the commission on an agenda item on the day for which the item is scheduled because of a variance to the order of procedure.

(d) Recognition. No person shall address the city commission without first being recognized by the mayor or presiding officer.

(e) Residents at meetings. Any resident of the city who wishes to address the commission concerning any agenda item which is under consideration by the commission may do so upon receiving recognition as specified in subsection (d) hereof. Any resident may address the commission through his/her authorized representative.

(f) Nonresidents at meetings. Any nonresident wishing to address the commission concerning an agenda item which is then under consideration by the commission shall, upon receiving recognition as specified in subsection (d) hereof, state their place of residence and their interests in the matter being considered. Nonresidents shall be allowed to address the commission if the mayor or presiding officer finds that they are so situated that the disposition of the agenda item may as a practical matter impair or impede their ability to protect their interest. Any nonresident qualified to address the commission hereunder may do so through their authorized representative.

(Ordinance 2186, sec. 1, adopted 6/2/98)

**Sec. 1.02.032      Agendas**

(a) Deadlines. All reports, communications, ordinances, resolutions, contract documents or other matters to be considered by the city commission shall be submitted to the city secretary no later than 5:00 p.m. on the Wednesday prior to the city commission meeting in which the matter will be heard. The mayor or any two city commissioners may also request certain items be placed on a city commission agenda; however, the same time deadlines shall apply and the request shall be given in writing. The city manager shall have authority to request certain items be placed on a city commission agenda without regard to deadlines specified above. The city

manager shall review all other requests and determine whether or not the subject matter is such that it requires consideration by an applicable advisory board, commission or department of the city.

If, in the city manager's opinion, a particular item should be considered by an advisory board, commission or department prior to city commission consideration, it shall be referred to the applicable board, commission or department. The city manager or his/her designee shall notify the requesting party that the proposed agenda item has been transferred for preliminary consideration. After the applicable board, commission or department has taken appropriate action on the item or after four (4) weeks have passed since the item was referred by the city manager and the board, commission or department has not acted, such item shall be placed on the agenda for the next city commission meeting, provided five (5) days have expired from the completion of four (4) weeks. In addition to the above, the mayor or city commissioners during any convened meeting may place items on the city commission agenda for the following meeting.

(b) Addendums. Where a meeting has been called with notice thereof posted in accordance with this section, additional subjects or items may be added to the agenda for such meeting upon request by the mayor or two city commissioners, provided the request is made in writing. Special forms may be obtained from the city secretary. The city secretary shall post a supplemental notice in which the emergency or urgent public necessity requiring consideration of such additional subjects is expressed. In the event any subject is added to the agenda in a supplemental notice posted for a meeting other than an emergency meeting, it shall be sufficient if the notice or supplemental notice is posted two (2) hours before the meeting is convened, and the presiding officer or the member posting the supplemental notice to the agenda for any other meeting shall, if requested, providing all pertinent information has previously been filed, give notice by telephone by telephone or telegraph to any news media.

(c) Exceptions. Special meetings called in cases of emergency or urgent public necessity shall be an exception from compliance required by the provisions of subsection (a) hereinabove.

(Ordinance 2186, sec. 2, adopted 6/2/98)

### **Sec. 1.02.033      Public comments**

(a) Rules. Each person addressing the commission within the public comment agenda item shall give his/her name and address in an audible tone of voice for the record, state the subject he/she wishes to discuss, state whom he/she is representing if he/she represents an organization or other persons, and, unless further time is granted by majority vote of the commission, shall limit his/her remarks to three (3) minutes. All remarks shall be addressed to the commission as a whole and not to any member thereof. Each person wishing to address the commission shall be required to register with the city secretary no later than 6:25 p.m. on the day of the commission meeting. Person(s) not meeting this deadline will not be able to address the commission. Public comments during commission meetings shall be limited to thirty (30) minutes.

(b) Group presentations. In order to expedite matters and to avoid repetitious presentations,

whenever any identifiable group of persons wishes to address the commission on the same subject matter, it shall be proper for the mayor or presiding officer to request that a spokesperson be chosen by the group to address the commission and, in case additional matters are to be presented by any other member of said group, to limit the number of such persons addressing the commission.

(c) Response. No response to public comments shall be given at the meeting by the mayor, city commission or staff. A written response may be issued within ten (10) days following said meeting. This provision is not intended to deny the members of the city commission the opportunity to ask questions of any member of the public during public comments.

(Ordinance 2186, sec. 3, adopted 6/2/98)

**Sec. 1.02.034 Order and decorum**

(a) Commission members. While the commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the commission nor disturb any member while speaking or refuse to obey the orders of the presiding officer.

(b) Employees. Members of the city staff and employees shall observe the same rules of order and decorum as are applicable to the city commission.

(c) Persons addressing commission. After a motion has been made or a public hearing has been closed, no member of the public shall address the commission from the audience on the matter under consideration without first securing permission to do so by a majority vote of the commission. Any person who willfully utters loud or abusive language or engages in any disorderly conduct which would impede, disrupt, or disturb the orderly conduct of any meeting, hearing or other proceeding shall be called to order by the presiding officer and, if such conduct continues, may at the discretion of the presiding officer be ordered barred from further audience before the commission during that meeting.

(d) Members of audience. No person in the audience shall engage in disorderly conduct such as hand clapping, stamping of feet, whistling, yelling, or similar demonstrations, which conduct disturbs the peace and good order of the meeting.

(Ordinance 2186, sec. 4, adopted 6/2/98)

**Sec. 1.02.035 Disturbance abatement**

(a) Warning. All persons shall, at the request of the presiding officer, be silent. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, said officer may order him to remove himself/herself from the meeting. If he/she does not remove himself/herself, the presiding officer may order the sergeant-at-arms to remove him/her.

(b) Removal. The chief of police, or such member or members of the police department as the

presiding officer may designate, shall be sergeant-at-arms of the commission meetings. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the commission meeting. Upon instruction of the presiding officer, it shall be the duty of the sergeant-at-arms to remove from the meeting any person who intentionally disturbs the proceedings of the commission.

(c) Resisting removal. It shall be unlawful for any person to resist removal by the sergeant-at-arms.

(d) Motions to enforce. Any commission member may move to require the presiding officer to enforce these rules, and the affirmative vote of a majority of the commission shall require him/her to do so.

(e) Adjournment. In the event that any meeting is willfully disturbed by a group or groups of persons as so to render the orderly conduct of such meeting unfeasible and such that order cannot be restored by the removal of individuals who are creating the disturbance, the meeting may be adjourned and the remaining business considered at the next regular meeting.

(Ordinance 2186, sec. 5, adopted 6/2/98)

**Sec. 1.02.036      Recording devices**

Cameras, including television and motion picture cameras, electronic sound recording devices and other mechanical, electrical or electronic recording devices may be used in a reasonable manner in the public section of the commission chamber. (Ordinance 2186, sec. 6, adopted 6/2/98)

**Sec. 1.02.037      Parliamentary procedures**

Robert's Rules of Order shall be the guide for the parliamentary proceedings of the commission meetings insofar as same are applicable thereof; provided, that no action taken by the commission shall be declared invalid because of a violation of Robert's Rules of Order. (Ordinance 2186, sec. 7, adopted 6/2/98)

**Sec. 1.02.038      Attendance required**

No commissioner or the mayor of said city will be entitled to any pay where he or she shall have been absent from two (2) or more meetings during any month, unless said absence is brought about by the acts of the city commission or said commissioner or mayor is ill and unable to attend said meetings. (Ordinance 552 adopted 3/1/50)

**ARTICLE 1.03 ADMINISTRATION**

**Sec. 1.03.001      Issuance of permits**

Before the issuance and delivery of any permit by the secretary in cases where a permit is required by either the laws of the state or by any ordinance of the city now in force or that may hereafter be in force, the city secretary shall carefully ascertain whether or not such person, persons, firms, partnership or corporation requesting such permit is in any manner indebted to the city for matured taxes or debts of any kind, and if he or she shall so find that such person, or persons or combination of persons, firms or corporations, is so indebted to the city, he or she shall not issue such permit, unless such person, persons, firm, partnership or corporation requesting such permit shall then and there pay such taxes or debt to the proper receiving officer of the city. (Ordinance 449 adopted 8/10/39)

**Sec. 1.03.002 Issuance of birth and death certificates**

- (a) Certified copies of birth certificates and death certificates shall hereafter be issued by the person designated as local registrar for the city and those deputized to act as his or her agent.
- (b) Fees shall be charged for issuance of certified copies as provided for in the fee schedule found in appendix A to this code.

(Ordinance 1094 adopted 9/13/90)

**State law references**—Records of births, deaths and fetal deaths, V.T.C.A., Health and Safety Code, sec. 191.021 et seq.; local registrar of births and deaths in municipality with population of 2,500 or more, V.T.C.A., Health and Safety Code, sec. 191.022.

**ARTICLE 1.04 BOARDS, COMMISSIONS AND COMMITTEES**

**Division 1. Generally**

**Sec. 1.04.001 Attendance at board meetings**

- (a) Each board member shall attend every regular board meeting as scheduled.
- (b) It shall be considered that any board member shall have resigned and accordingly shall be automatically removed from any board upon failure to attend three (3) consecutive regular board meetings.
- (c) However, any board member shall be permitted to take a temporary leave of absence upon written prior notification to the board of the anticipated length of absence and reason which makes it impossible for that board member to be in attendance for that period.

(Ordinance 2075 adopted 11/16/93)

**Secs. 1.04.002–1.04.030 Reserved**

**Division 2. Cultural Arts Board**

**Sec. 1.04.031 Created; composition; qualifications**

A cultural arts board is hereby established, the same to consist of five (5) members. Each appointee to the board shall be at least eighteen (18) years of age. Each appointee must be of good moral character and must demonstrate an interest in the general welfare of the city. Each appointee shall continue to serve until a successor is appointed. An appointee shall forfeit his office if such appointee fails to attend three (3) consecutive meetings or a total of five in a calendar year. The mayor and city commissioners shall be ex officio members of the cultural arts commission. (Ordinance 2163, sec. I, adopted 4/15/97)

**Sec. 1.04.032 Appointment; terms; filling of vacancies**

The cultural arts board members shall be selected by the mayor and city commissioners, each appointing one board member. The board members shall serve staggered four-year terms, save and except for vacancies resulting from death, resignation, or other causes, to be filled by appointment by a majority of the elective commission and to serve for the remainder of such vacant term. Successor appointments shall also be filled by appointment by a majority of the elective commission. The nomination for a member to fill an unexpired term or a successor term on the cultural arts board shall be submitted to the elective commission by the mayor. (Ordinance 2163, sec. II, adopted 4/15/97)

**Sec. 1.04.033 Advice to commission; chairperson; pay**

- (a) The cultural arts board shall be an advisory body to the city commission.
- (b) The members of the cultural arts board shall elect annually from among themselves a member to serve as chairperson.
- (c) The members shall serve without pay.

(Ordinance 2163, sec. III, adopted 4/15/97)

**Sec. 1.04.034 Rules and regulations**

The cultural arts board shall make such rules and regulations for the conduct of its meetings and carrying out the provisions of this division as shall be needed. (Ordinance 2163, sec. IV, adopted 4/15/97)

**Sec. 1.04.035 Powers and duties**

- (a) The cultural arts board shall act in an advisory capacity only, and shall have no power to bind the city by contract or otherwise. It shall be the function of the board to make artistic judgments and funding recommendations on all of the arts and cultural project applications for city grants.
- (b) The board shall use its best efforts to secure the support and cooperation of cultural arts

centers in the area. It shall make an annual report and recommendation to the city commission on its activities and work.

(Ordinance 2163, sec. V, adopted 4/15/97)

**Secs. 1.04.036–1.04.060      Reserved**

### **Division 3. Veterans Advisory Board**

**Sec. 1.04.061      Created; composition; qualifications**

A veterans advisory board is hereby established, the same to consist of seven (7) members. Each appointee to the board shall be a resident of good moral character and should demonstrate an interest in the general welfare of the city. Each appointee shall continue to serve until a successor is appointed. An appointee shall forfeit his office if such appointee fails to attend three (3) consecutive meetings in a calendar year. One city commissioner shall be an ex officio member of the board. (Ordinance 2285, sec. I, adopted 7/1/03)

**Sec. 1.04.062      Appointment; terms; filling of vacancies**

The veterans advisory board members shall be selected by the mayor and the city commissioners, each appointing one board member. One each of the original five (5) appointed board members shall serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively, as determined by an initial drawing of lots by the original board members. All successor appointees shall serve four-year terms, save and except for vacancies resulting from death, resignation, failure to remain a resident of the city, or other causes, to be filled by appointment by a majority of the elective commission and to serve for the remainder of such term. Successor appointments shall also be filled by appointment by a majority of the elective commission. The nomination for a board member to fill an unexpired term or a successor term shall be submitted to the commission by the mayor. (Ordinance 2285, sec. II, adopted 7/1/03)

**Sec. 1.04.063      Advice to city commission**

The veterans advisory board shall be an advisory board to the city commission. (Ordinance 2285, sec. III, adopted 7/1/03)

**Sec. 1.04.064      Organization**

The veterans advisory board shall make such rules and regulations for the conduct of its meetings and carrying out the provisions of this division as shall be needed. (Ordinance 2285, sec. IV, adopted 7/1/03)

**Sec. 1.04.065      Powers and duties**

The veterans advisory board shall acquaint itself with and make a continuous study and inspection of all city-owned facilities related to veterans and shall advise the city commission,

from time to time, as to the present and future maintenance, operation, planning, acquisition, development, enlargement and public use policy of such facilities. It shall advise the city commission on veterans' issues as they pertain to city government. It shall make an annual report and recommendation to the city commission on its activities and work. (Ordinance 2285, sec. V, adopted 7/1/03)

**Secs. 1.04.066–1.04.090      Reserved**

**Division 4. Milk Fund and Health Fund Committee**

**Sec. 1.04.091      Created**

There is hereby created a permanent trust fund committee for the city, to be known as the San Benito-Falligant Milk Fund and Health Fund Committee. Said committee consists of three (3) women members, with the mayor of the city serving as an ex officio member of the committee. The term of appointment of the members of said committee shall be for staggered three-year periods. In the event of a vacancy on the committee, the mayor may appoint a new member or members of the committee to fill the unexpired term or terms. In the event the mayor fails to appoint new members to the committee upon termination of the term of the existing members, the existing members of the committee shall continue to hold office until new members have been appointed.

**Sec. 1.04.092      Purposes**

(a) The committee herein created shall receive and be responsible for the disbursement of the income derived from the George B. Falligant Milk Fund Trust. The committee shall expend the income derived from such milk fund trust for the purchase of sweet milk to be dispensed to the needy children of the city, under such regulations and conditions as such committee and the Houston Bank and Trust Company, as trustee, may agree upon.

(b) The committee herein created shall also receive and be responsible for the disbursement of income derived from the George B. Falligant Health Fund Trust. The committee shall expend the income derived from such health fund trust in any way that will help the children of the city, who are of school age, to become healthier and better children, morally, mentally and physically. It is specifically provided, however, that no part of the income from this health trust fund shall be used for surgical operations of any sort whatsoever, but shall be used for clothing and the like, for dispensing natural foods to needy children, for physical examinations, for lectures to the parents of school age children, and other similar purposes.

**Sec. 1.04.093      Conditions**

(a) The San Benito-Falligant Milk Fund and Health Fund Committee created is directed to carry out and comply with the purposes for which it is created.

(b) The committee shall make an annual accounting to the city commission, which accounting shall set out in detail the funds received for the milk fund and the health fund and the

expenditures made by the committee for each fund during the preceding year, said accounting to be in form acceptable to the Houston Bank and Trust Company, as trustee. The city shall furnish the Houston Bank and Trust Company with a certified copy of such accounting.

(c) The Houston Bank and Trust Company, as trustee, reserves the right, in its absolute discretion, to determine if the income from the milk fund trust is no longer needed, or if the income from the health fund trust is not being used by the committee for the purposes herein set forth.

(d) The city shall maintain two (2) bank accounts, designated as the “San Benito-Falligant Milk Fund Trust” and the “San Benito-Falligant Health Fund Trust,” into which funds received from the Houston Bank and Trust Company, as trustee, shall be deposited.

(e) In the event there remains on hand at the end of each accounting period unexpended funds for the year, such unexpended funds shall be carried over to the succeeding year and disbursed together with any additional funds received from the trustee and may be carried over from year to year and expended at one or more times, in such amounts as the committee deems such expenditure advisable and beneficial for the children of the city in accordance with the provisions of the trust instrument.

(Ordinance 775 adopted 8/16/67)

## **ARTICLE 1.05 EMERGENCY MANAGEMENT<sup>ii\*</sup>**

### **Division 1. Generally**

#### **Sec. 1.05.001 National Incident Management System**

The city hereby adopts the National Incident Management System dated March 1, 2004.  
(Ordinance 2360 adopted 8/30/05)

#### **Secs. 1.05.002–1.05.030 Reserved**

### **Division 2. Emergency Management Plan**

#### **Sec. 1.05.031 Organization**

(a) There exists the office of emergency management director (the “director”) of the city, which shall be held by the mayor in accordance with state law.

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

(c) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this division. The

director may delegate authority for execution of the comprehensive emergency management program to the coordinator.

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

(Ordinance 2215, sec. 1, adopted 8/15/00)

**Sec. 1.05.032 Director’s powers and duties**

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

- (1) Surveying actual or potential hazards which threaten life and property within the city and identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (2) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the city commission of all mutual aid arrangements deemed necessary for the implementation of such plan.
- (3) Authority to declare a local state of disaster (the “declaration”). The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the city commission. Any declaration, continuation of the declaration or termination of the declaration shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this division. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring their contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
- (5) Direction and control of the operations of the city emergency management organization as well as the training of emergency management personnel.
- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) Marshaling of all necessary personnel, equipment, or supplies from any department of

the city to aid in the carrying out of the provisions of the emergency management plan.

- (9) Supervision of the drafting and executing 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 countywide coordination of emergency management efforts.
- (10) Supervision of, and final authorization for, the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.
- (12) Surveying the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.
- (13) Other requirements as specified in the Texas Disaster Act (chapter 418 of the Government Code).

(Ordinance 2215, sec. 2, adopted 8/15/00)

**Sec. 1.05.033      Development of plan**

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

(Ordinance 2215, sec. 3, adopted 8/15/00)

**Sec. 1.05.034      Liability**

This division 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 division shall be liable for any damage sustained to persons as the result of said activity. Any person owning or

controlling real estate or other premises who voluntarily and without compensation grants to the city 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 or natural or manmade disaster shall, together with his successors in interest, if any, not to 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. (Ordinance 2215, sec. 5, adopted 8/15/00)

**Sec. 1.05.035 Commitment of funds**

No person shall have the right to expend any public funds of the city in carrying out any emergency management plan activity authorized by this division without prior approval by the city commission, nor shall any person have any right to bind the city by contract, agreement, or otherwise without prior and specific approval of the city commission unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds of the city when deemed prudent and necessary for the protection of health, life, or property. (Ordinance 2215, sec. 6, adopted 8/15/00)

**Sec. 1.05.036 Offenses; penalties**

- (a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this division.
- (b) 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.
- (c) Convictions for violations of the provisions of this division shall be punishable by fine not to exceed five hundred dollars (\$500.00).

(Ordinance 2215, sec. 7, adopted 8/15/00)

**Sec. 1.05.037 Limitations**

This division shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation. (Ordinance 2215, sec. 9, adopted 8/15/00)

**ARTICLE 1.06 PARKS AND RECREATION**

**Division 1. Generally**

**Sec. 1.06.001 Closing hours**

- (a) A person commits an offense if he/she knowingly or intentionally enters or is present

within any city park between the hours of 11:00 p.m. and 5:00 a.m.

(b) The parks department of the city shall install signs at city parks notifying the public of the provisions of this section.

(c) This section shall not apply to the fence enclosed area of the Stookey Park Pavilion and adjacent parking lot, the hours of use for which shall be governed by the use permit issued by the city.

(d) An offense under subsection (a) of this section is punishable by a fine as provided in section 1.01.009 of this chapter.

(Ordinance 2114, secs. I–IV, adopted 8/1/95)

**Sec. 1.06.002 Plaza de San Benito**

The square block of city property located between the 200 block of East Stenger, 200 block of North Reagan, 200 block of East Heywood, and 200 block of North Crockett streets is designated as a city park and is named “Plaza de San Benito.” (Ordinance 2242, sec. 1, adopted 1/8/02)

**State law reference**—Authority to acquire and maintain parks, museums and historic sites, V.T.C.A., Local Government Code, ch. 331.

**Secs. 1.06.003–1.06.030 Reserved**

**Division 2. Parks and Recreation Board**

**Sec. 1.06.031 Created; composition; qualifications**

A parks and recreation board is hereby established, the same to consist of five (5) members. Each appointee to the board shall be at least eighteen (18) years of age, and each appointee must be a resident of the city and be of good moral character and demonstrate an interest in the general welfare of the city. Each appointee shall continue to serve until a successor is appointed. An appointee shall forfeit his office if such appointee fails to attend three (3) consecutive meetings in a calendar year. The mayor and city commissioners shall be ex officio members of the board. (Ordinance 2131, sec. I, adopted 9/3/96)

**Sec. 1.06.032 Appointment; terms; filling of vacancies**

All appointees shall serve staggered four-year terms, save and except for vacancies resulting from death, resignation, failure to remain a resident of the city, or other causes, to be filled by appointment by a majority of the elective commission and to serve for the remainder of such vacant term. Successor appointees shall also be filled by appointment by a majority of the elective commission. The nomination for a board member to fill an unexpired term or a successor term shall be submitted to the commission by the mayor. (Ordinance 2131, sec. II, adopted 9/3/96)

**Sec. 1.06.033 Duty to advise commission**

The parks and recreation board shall be an advisory board to the city commission. (Ordinance 2131, sec. II, adopted 9/3/96)

**Sec. 1.06.034 Organization**

The parks and recreation board shall make such rules and regulations for the conduct of its meetings and carrying out the provisions of this division as shall be needed. (Ordinance 2131, sec. IV, adopted 9/3/96)

**Sec. 1.06.035 Powers and duties**

(a) The parks and recreation board shall acquaint itself with and make a continuous study and inspection of the complete park and recreation system of the city and shall advise the city commission, from time to time, as to the present and future maintenance, operation, planning, acquisition, development, enlargement and public use policy of the city parks and recreation system.

(b) It shall use its best efforts to secure the support and cooperation of civic clubs in the establishment and conduct of a year-round park, city beautification and recreation program for the city. It shall make an annual report and recommendation to the city commission on its activities and work.

(Ordinance 2131, sec. V, adopted 9/3/96)

**ARTICLE 1.07 LIBRARY**

**Division 1. Generally**

**Sec. 1.07.001 Creation of department**

Pursuant to the charter of the city, a department is hereby created within the framework of the governmental organization of the city which shall be known as the library department, and it shall function according to the laws of the state, the charter of the city, and the provisions of this article. (Ordinance 949-A, sec. 1, adopted 1/4/83)

**Sec. 1.07.002 Gifts and donations**

The city hereby accepts all gifts and donations of books and equipment heretofore made for the public library, with grateful [appreciation] to the donors both of books and time, and it is ordained that such books and equipment, together with such additions as may be made from time to time, shall constitute and form the books and equipment of the public library. (Ordinance 949-A, sec. 2, adopted 1/4/83)

**Sec. 1.07.003 Rules and regulations governing borrowing and retention of materials**

- (a) No person shall remove or borrow any books, articles, or library materials from the premises of the public library unless and until said removal of books, articles or materials has been consented to, recorded and charged out at the circulation desk of said library.
- (b) It shall be unlawful for any person to retain or fail to return any books, articles or materials beyond the date designated by the library employee or officer at the time said book, article or material is removed by consent of the library and charged out to the person removing same at the library or any extensions of time granted in writing by the library.
- (c) Any person failing to return any book, article or other materials on or before the date designated as provided in subsection (b) shall be liable for a fine or late charge for each day of such retention as provided by the rules and regulations of the public library board. If the person or borrower of the books, articles, or materials is under eighteen (18) years of age, then the parent or guardian of such person shall be notified by certified mail, at the last known address contained in the library records, of the default and violation of the provisions of this section. The failure to return the books, articles or materials within ten (10) days after mailing of such notice by certified mail shall cause said fine and late charge to be assessed against such parent or guardian.
- (d) It shall be unlawful for any person to register or furnish a false name or address or to forge or to furnish false identification or a card not belonging to said person for the purpose of borrowing or removing any book, article or material from the public library.
- (e) It shall be unlawful for any person to direct, request, allow or otherwise permit or allow any other person whomsoever to borrow or use his or her official public library card for the purpose of borrowing any library books or other materials owned or under the control of the public library.
- (f) It shall be unlawful for any person to fail to give written notice to library personnel at the circulation desk at the public library within seven (7) calendar days after said person knows or should have known that his or her official public library card has been lost or stolen.
- (g) It shall be unlawful for any person to fail to return to the circulation desk at the public library any materials of whatever character which are owned or under the control of said library within ten (10) calendar days of the date of mailing of a letter via certified mail, return receipt requested, by the library director or such other person designated by the library director, advising such person that the library materials are more than four (4) weeks overdue and further advising that a complaint will be filed in the municipal court against such person by the library director or such employee designated by the library director if such person does not return the materials to the circulation desk of the public library within ten (10) calendar days from the date of mailing of said letter. In the event the borrower of library materials is a minor, the certified mail notice provided for herein shall be mailed to the parents or guardian of said minor, and it shall be unlawful for the parent or guardian of such minor to fail to return such library materials to the

circulation desk of the public library within ten (10) calendar days of the date of mailing of a letter via certified mail, return receipt requested, by the library director, advising such person that the library materials are more than four (4) weeks overdue and further advising that a complaint will be filed in the municipal court against such person by the library director or such employee designated by the library director if such person does not return the materials to the circulation desk of the public library within ten (10) calendar days from the date of mailing of said letter. In addition to the maximum penalty as provided for in section 1.01.009 of this chapter for violation of any provisions hereof, any person who fails to return library materials in accordance with this section shall pay an administrative charge as provided for in the fee schedule in appendix A to this code to defray the costs of preparation and mailing of the certified mail letter(s) provided for in this section.

(h) It shall be unlawful for any person to damage, deface, cut, tear, disfigure, damage or destroy any books, articles or other library materials or any part thereof which belong to or were borrowed from the public library.

(Ordinance 1088, secs. 1–8, adopted 2/21/89)

**Sec. 1.07.004 Fees**

Fees are to be charged for certain items as provided for in the fee schedule found in appendix A to this code. (Ordinance 949-A, sec. 5, adopted 1/4/83)

**Sec. 1.07.005 Display of fees and expenses schedule**

All fees, fines, and administrative expenses in regard to the issuance of library cards, damages to library materials, loss of library materials, etc., shall be set by the library board and may be amended from time to time by said board. At all times, however, the library board shall cause a copy of its current fees and expenses schedule to be posted in public places throughout the library. (Ordinance 1088, sec. 16, adopted 2/21/89)

**Sec. 1.07.006 Conduct while on library property**

(a) It shall be unlawful for any person or persons to enter upon the lawn or other public grounds of the public library when forbidden to do so by an official posted on such grounds or by other official notification.

(b) It shall be unlawful for any person or persons to loiter in or upon any library lands or buildings or to obstruct or molest the free passage of other persons in and from said library lands or buildings.

(c) No person shall loiter on the library lands or in its building in such a manner as to create or cause to be created a danger or a breach of the peace or whereby a breach of the peace may be occasioned.

(d) No person shall obstruct, annoy, molest, hinder, threaten, insult or interfere with any person

legally enjoying the privileges and use of the library nor shall such offending person make or cause to be made any loud, disturbing or offensive noises or remarks in and upon the grounds and premises of the library.

(e) It shall be unlawful for any person or persons to willfully or maliciously commit any vandalism or injury or damage to or upon the lands or buildings of the public library or any of its real or personal property including, without limitation, any furniture, fixtures, shelving, equipment, books, pictures or other artwork, belonging to or in the possession of the public library.

(f) All facilities in the library shall be used for library purposes only. Meeting rooms may be used by nonprofit organizations with the permission of the librarian, provided that such nonprofit organizations observe all rules and regulations governing the use of the meeting rooms.

(Ordinance 1088, secs. 8–15, adopted 2/21/89)

**Secs. 1.07.007–1.07.030      Reserved**

## **Division 2. Board of Trustees**

**Sec. 1.07.031      Created**

There is hereby created the board of trustees of the public library, hereinafter called board, which shall recommend the formulation and maintenance of such bylaws, rules and regulations for the conduct of its meetings and its organization and for operation of the public library system as shall be deemed necessary by the library board, under the supervision and control of the city manager, for the orderly and efficient conduct of the business of the board and the operation of the public library system. (Ordinance 949-A, sec. 3, adopted 1/4/83)

**Sec. 1.07.032      Appointment of members**

The board hereby established shall be composed of eight (8) members, of which number seven (7) members shall be appointed by the city commission. The appointed members of the board shall serve for a term of two (2) years. In addition to the said seven (7) appointed members of the board, the city manager or his or her designate shall be an ex officio member of the board without voting rights upon the board. (Ordinance 949-A, sec. 4, adopted 1/4/83)

**Sec. 1.07.033      Powers and duties**

[Powers and duties of the public library board of trustees are to:]

- (1) Recommend the general policies and programs for the operation, conduct and management of the public library system and recommend the employment and retention of all personnel to the city manager. (Ordinance 949-A, sec. 6, adopted 1/4/83)

- (2) Once each year, submit to the city manager a recommended proposed budget for the public library system for the ensuing fiscal year, and secure the approval of said budget by the city commission. (Ordinance 1088, sec. 16, adopted 2/21/89)
- (3) Review the disbursement of all funds allocated by the city commission to the public library system; all such funds to be disbursed by the city secretary in accordance with such budget as shall have been theretofore approved by the city commission.
- (4) Accept and receive for the use and benefit of the public library system all donations, gifts, and bequests contributed or devised thereto, whether for a special or stated purpose, or for the general use of the system, and recommend the disbursement, investment or expenditure of such funds which shall be deposited with the city secretary and disbursed by him or her upon the authorization by the board.
- (5) Recommend such general rules and regulations governing the use of the public of the public library system as it shall see fit.
- (6) Make recommendations to the city commission for action on its part for the benefit of the public library system.
- (7) Submit at least one report monthly to the city commission of the activities, work and operation of the public library system.

(Ordinance 949-A, sec. 6, adopted 1/4/83)

- (8) Set fees, fines and expenses to be charged by the library system for various administrative matters such as the issuance of library cards, damage to books and other library materials and rental charges as necessary from time to time. In that regard the board shall cause a notice of such charges to be posted as set forth hereinabove. (Ordinance 1088, sec. 17, adopted 2/21/89)

**Sec. 1.07.034      Obligation of funds**

The board of trustees shall have no power to obligate the city in any manner or to incur on behalf of the city any expenses incident to the operation of the library system. (Ordinance 949-A, sec. 7, adopted 1/4/83)

**ARTICLE 1.08 STREETS, SIDEWALKS AND PUBLIC WAYS**

**Division 1. Generally**

**Sec. 1.08.001      Planting trees**

- (a) All trees, shades, palms, and shrubs hereafter planted on streets and alleys of the city shall be planted in conformity with the following regulations: On Sam Houston Avenue, they shall be

planted twelve feet (12') from the property line as established by the city engineer. On all other streets they shall be planted eight feet (8') from the property line.

(b) The meaning of "property line" as used in this section shall be construed to mean from the line of the lot or property next adjacent to the street where it is proposed to plant or transplant such tree.

(Ordinance 316, art. 3, adopted 8/24/27)

**Sec. 1.08.002      Obstruction of streets**

(a) Any person, firm or corporation who shall unnecessarily obstruct any sidewalk or passage, any street or alley, or any walk or public ground within this city with any boxes, barrels, vehicles, horses or beasts, fowl of any kind, lumber, wood or any material whatsoever or shall ride or drive over and upon any sidewalk within this city, or shall lariat any animal so as to interfere with any street, alley, passage or sidewalk shall be deemed guilty of an offense and shall be fined in accordance with the general penalty in section 1.01.009 of this chapter.

(b) The foregoing subsection should not prohibit any person or persons who have complied with the city ordinances and obtained a building permit and who may be erecting any building from using and occupying a reasonable portion of the street in front of such building as provided in the building ordinance.

(c) Hereafter it shall not be lawful for any merchant or other person in this city to place, stack or leave barbed wire or other material, boxes, wood, lumber, produce, vehicles, goods, wares, merchandise or any article whatsoever upon any part of any sidewalk or street, alley, avenue or public ground of this city, and any persons violating this subsection shall, upon conviction, be fined in accordance with the general penalty in section 1.01.009 of this chapter.

(d) If any person in this city shall place, throw or cause to be thrown any article whatsoever, upon any highway, street, alley, bridge or public place so as to obstruct a free and full passage, he or she shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in accordance with the general penalty in section 1.01.009 of this chapter.

(e) If any person, firm or corporation shall use or attempt to use any part of any street, avenue, alley or public ground, whether the street proper or the sidewalk, or parkway, for any stand or place for the sale of goods, wares or merchandise, or for the demonstration of any device, machine or attachment, or part to a machine, or any process, unless such demonstration shall be a part of the traffic moving on such street, or shall occupy any part of same with any vehicle from which goods, wares or merchandise are sold, or attempted to be sold, unless same is being driven from house to house in conformity with the ordinances of the city in regard to peddling, if and when and under such conditions as such ordinances permit peddling, he, they or it shall, upon conviction, be fined in accordance with the general penalty in section 1.01.009 of this chapter. Provided that the mayor may issue special licenses for stands during celebrations of holidays, carnivals, and fairs, which licenses shall not be effective for a longer period than such celebration, carnival or fair shall last, and a separate license shall issue for each such period.

(Ordinance 316, art. 1, adopted 8/24/27)

**State law reference**—Obstruction of highway or other passageway, V.T.C.A., Penal Code, sec. 42.03.

**Secs. 1.08.003–1.08.030      Reserved**

### **Division 2. Encroachments on Rights-of-Way**

**Sec. 1.08.031      Prohibited**

It shall be unlawful for any property owner, renter, lessee, manager or person in charge to allow vehicles, signs and other items not previously approved by the city commission to encroach on any governmental rights-of-way within the corporate limits of the city, including any areas off of any paved portions of a roadway. (Ordinance 2160, sec. I, adopted 4/8/97)

**Sec. 1.08.032      Issuance of citation for violation**

If the property owner, renter, lessee, manager or person in charge has been notified previously through a warning, citation or a letter from any city official about his or her vehicles, signs or items encroaching on the rights-of-way listed in section 1.08.031, the city shall not be required to give a second notice and shall automatically result in the issuance of a citation by a police officer. (Ordinance 2160, sec. II, adopted 4/8/97)

**Sec. 1.08.033      Penalty for violation**

Any person violating any section of this division shall, upon conviction, be fined as provided in section 1.01.009 of this chapter for each and every day that this division is violated; and each and every day that any section of this division is violated shall constitute a separate and distinct offense. In addition to said penalty provided for, the city shall have the right to bring suit in such court or courts having jurisdiction hereof and obtain such remedies as may be available by law. (Ordinance 2160, sec. III, adopted 4/8/97)

**Secs. 1.08.034–1.08.060      Reserved**

### **Division 3. Street Numbering**

**Sec. 1.08.061      Required**

All buildings or structures, and the entrances thereto, located upon any street, avenue or public thoroughfare in the city, shall be numbered in and by the manner provided in this division.

**Sec. 1.08.062      Penalty for violation**

Any person, or persons, firm or corporation, failing to carry out the provisions hereof or interfering with the enforcement hereof, or in any manner violating the provisions of this division, shall be guilty of a misdemeanor and shall be fined in accordance with the general

penalty in section 1.01.009 of this chapter.

**Sec. 1.08.063 Responsibility to affix numbers on buildings**

The owner or owners of all buildings or structures situated within the city are ordered and required to place upon and affix to each and every entrance fronting or facing upon any street, avenue or public thoroughfare, to every such building or structure, the number or numbers provided and fixed by this division. The numbers must be attached to or placed upon some conspicuous place upon such buildings or structures convenient to the entrance thereof, and in such position and of such character that such number shall be visible from the sidewalk or sidewalk line.

**Sec. 1.08.064 Map or plat of assigned numbers**

The city secretary is hereby ordered to prepare or to have prepared a map or plat of the city, whereon numbers shall be assigned to each and every lot and in each block in the city, and to assign and furnish to each and every owner, upon application, the proper numbers for the lot or lots upon which such owner's buildings or structures are situated, assigned one or more numbers for each lot and the order in which the same shall be affixed for each entrance. The sample schedules herein set out shall be used by the city secretary as a key to such numbers.

**Sec. 1.08.065 Numbering of buildings fronting on alley**

If in any instance a public alley is, or hereafter shall be, used as a public thoroughfare, then and in such case the entrance to buildings or structures located or fronting upon such alley shall be numbered as herein provided; otherwise, it is not required that entrances to buildings or structures fronting upon public alleys be numbered.

**Sec. 1.08.066 System established**

- (a) All streets, avenues and public thoroughfares established or laid out shall be numbered in accordance with the provisions hereof and the schedules herein set out for the respective portions of the city wherein the same may be located.
- (b) The portion of all streets, avenues or public thoroughfares, running in the general direction of north and south and located south of the right-of-way line of the St. Louis, Brownsville and Mexico Railway Company, as now located and constructed, shall be designated by affixing the word "south" before the names thereof; and the portion of all streets, avenues or public thoroughfares, running in the general direction of north and south and located north of the said right-of-way of the St. Louis, Brownsville and Mexico Railway Company shall be designated by affixing the word "north" before the names thereof. The center right-of-way line above mentioned is hereby established as the north and south division line for the purpose of this division.
- (c) Even numbers shall in all instances be located on the right-hand side of each street, avenue or public thoroughfare when facing in the direction of the high or progressing numbers and the

odd numbers on the left-hand side when facing the high or progressing numbers.

(d) Those portions of all north and south streets, avenues and public thoroughfares lying south of the said right-of-way line of the St. Louis, Brownsville and Mexico Railway Company and east of the resaca or main canal shall be numbered with one hundred numbers to each block beginning at Robertson Street with the numbers 200 and 201 and running south with the even numbers on the right-hand side of the street when facing south, and those portions of all north and south streets, avenues and public thoroughfares lying north of the said right-of-way line and east of the resaca or main canal shall also be numbered with one hundred numbers to each block beginning at Stenger Street with the numbers 200 and 201 and running north with the even numbers on right-hand side of the street when facing north, and all in accordance with sample or key schedule no. 1 as maintained on file in the office of the city secretary.

(e) The blocks fronting on the north and south streets lying south of the said right-of-way line and east of said resaca, being odd-sized blocks beginning at Robertson Street shall be numbered toward the north commencing with numbers 198 and 199 and running toward the smaller number with the smaller numbers running toward Rowson Street, and the blocks fronting on the north and south streets lying north of the said right-of-way line and east of said resaca, being also odd-sized blocks, beginning at Stenger Street shall be numbered toward the south commencing with numbers 198 and 199 and running toward the smaller numbers and with the smaller numbers running toward Batts Street, and all in accordance with sample or key schedule no. 2 as maintained on file in the office of the city secretary.

(Ordinance 93 adopted 1/12/20)

(f) All east and west streets, avenues and public thoroughfares shall be numbered in the same manner as hereinabove provided for north and south streets except that all streets lying east of the centerline Sam Houston Avenue or Boulevard shall be designated by affixing the word "east" before the names thereof, and all streets lying west of the centerline of said Sam Houston Avenue or Boulevard shall be designated by affixing the word "west" before the names thereof. Sam Houston Boulevard, for the purpose of this division, is being treated as running north and south, and numbers shall be assigned to the lots fronting on said streets as provided in the key numbers set out in Ordinance 93, all in accordance with sample or key schedule no. 1 as maintained on file in the office of the city secretary.

(g) All streets, avenues and public thoroughfares lying south of said right-of-way line and east of the resaca shall be numbered north and south from Robertson Street and west from Sam Houston Avenue, with 100 numbers to each block in accordance with the samples and key schedules in numbers 1 and 2 set out above as each apply and Robertson and Travis Streets, are hereby established as dividing lines between the 100 and 200 blocks.

(h) All avenues, streets and public thoroughfares lying north of the right-of-way line and east of the resaca shall be numbered north and south of Commerce Street and west of Sam Houston Avenue or Boulevard with 100 numbers to each block, all in accordance with sample or key schedule no. 3 set out in Ordinance 93. Commerce Street and Travis Avenue are hereby established as dividing lines between the 100 and 200 blocks.

(Ordinance 206 adopted 11/25/25)

**Secs. 1.08.067–1.08.090      Reserved**

**Division 4. Cutting of Streets<sup>iii\*</sup>**

**Sec. 1.08.091      Permit required**

No person, firm or corporation, their agents or employees, shall hereafter dig any holes, make cuts or excavate trenches upon, through or beneath the streets, alleys, or public rights-of-way of the city, nor install, repair, remove or adjust any underground utility along, upon, through or beneath the streets, alleys, avenues, or public rights-of-way without first having made application and obtained a written permit therefor as hereinafter provided. The application shall be addressed to the public works director and made on a form furnished for that purpose, stating the extent, character and purpose of the cut, opening or excavation to be made, the exact place where the work is to be done and the time it is desired to start the work and the estimated time of completion. The application shall also show the depth, grade and location of the underground utility concerned. In the event of an emergency, it being evident that immediate action is necessary for the protection of the public and to minimize property damage, the utility concerned may make necessary emergency repairs, notifying the city of this action as soon as practicable. When the permit is issued, the emergency action will be noted thereon.

**Sec. 1.08.092      Permit issuance**

It shall be the duty of the public works director to issue a permit to any person making application for a permit and who has complied with the provisions of this division.

**Sec. 1.08.093      Safeguards**

[The person] shall safeguard and protect the public by placing adequate barricades and lights around all cuts, openings, excavations, materials, equipment and tools used in connection with said work. Under certain hazardous conditions it may be required that one or more watchmen be used to safeguard the public. This protection shall be provided until the city has completed backfilling and paving the opening.

**Sec. 1.08.094      Notice of completion of work**

The public works director [shall] be notified when the installation, repair, removal or adjustment has been completed and the permit holder is ready for the hole, opening or excavation to be filled in or closed.

**Sec. 1.08.095      Backfilling and repaving**

(a) The public works director will backfill the hole, opening or excavation with suitable material compacted to a density not less than the surrounding material and repave the surface in

the same condition as it was before the excavation, opening or cut was made.

(b) The city will charge the permit holder the actual cost of backfilling and repaving.

(Ordinance 663B adopted 4/2/58; Ordinance adopting Code)

## **ARTICLE 1.09 PUBLIC DANCES ON CITY PROPERTY; SUPPLEMENTAL CHARGES AND REQUIREMENTS FOR CITY BUILDINGS AND FACILITIES**

### **Sec. 1.09.001 Definitions**

Person(s). Any individual, group of individuals, company or corporation.

Police officer. Any law enforcement officer actively employed by the city who is not on an otherwise regularly scheduled shift during the hours of the public dance or function.

(Ordinance 2348, sec. 2, adopted 4/5/05)

### **Sec. 1.09.002 Public dances on city property—Police officers required**

Any person who desires to give a public dance, or other function, for the purpose of entertainment, where alcoholic beverages are permitted and consumed on certain property owned by the city, including but not limited to the community building and other buildings, locations or sites that are owned by the city, shall, prior to securing a dance or other function permit, request [a permit] from the chief of police, or his designee, no later than seventy-two (72) hours prior to the time of commencement of the public dance or other function. A minimum fee for two (2) police officers shall be added for dances, plus an additional fee per hour per officer. The fees shall be as provided in the fee schedule in appendix A to this code. Three officers are required for functions involving more than 150 people attending a function or other functions. Failure to retain the requisite police officers at least seventy two (72) hours prior to the event will result in refusal of the requested permit and the public dance or other function will not be permitted to take place. The requisite police officers must be present for the duration of the event. (Ordinance 2348, sec. 3, adopted 4/5/05; Ordinance adopting Code)

### **Sec. 1.09.003 Same—Disturbances**

In the event of any disturbance at a public dance or function on city property, it shall be the responsibility of the police officers to quell such disturbance and to restore peace using any and all legal means available to them in accordance with federal, state and local laws, including but not limited to arresting the person or persons believed to be responsible for breach of the peace and closing the dance or function. (Ordinance 2348, sec. 4, adopted 4/5/05)

### **Sec. 1.09.004 Same—Violations**

Any person who holds a public dance or function on property owned by the city and who does

not have the required police officers present as required under section 1.09.002 shall be deemed in violation of this division and shall be liable to a fine as provided in section 1.01.009 of this chapter. (Ordinance 2348, sec. 5, adopted 4/5/05)

**Sec. 1.09.005 Breakage deposit refund**

The breakage deposit shall be refunded if the cancellation notice is received at least ten (10) working days prior to the reservation date. The breakage deposit for pavilions may be refunded if the cancellation notice is received at least one (1) working day prior to the reservation date, if an act of God is impending or expected to occur that will adversely affect their use. (Ordinance 2348, sec. 6, adopted 4/5/05)

**Sec. 1.09.006 Nonprofit organization defined**

A nonprofit organization is either a corporation chartered under the Texas Nonprofit Act, or otherwise recognized and approved as a nonprofit organization by the city commission. (Ordinance 2348, sec. 7, adopted 4/5/05)

**Sec. 1.09.007 Exemptions from rental fees**

Government entities such as the San Benito Independent School District, the county, etc., are exempt from any rental fees for the use of city facilities for official meetings and activities of such entities. (Ordinance 2348, sec. 8, adopted 4/5/05)

**Sec. 1.09.008 Waiver of rental fees for certain groups**

The city manager is hereby authorized to waive all or part of any rental fees for the use of city facilities by the San Benito Baseball League and San Benito Boys and Girls Club to sponsor meetings and activities of benefit for the community. Such waiver must be requested in writing. (Ordinance 2348, sec. 9, adopted 4/5/05)

**Sec. 1.09.009 Negotiation of fees for concerts at livestock show grounds**

The city manager is hereby authorized to negotiate a fee for all profit-making organizations who desire to use the city property at the livestock show grounds for concerts. (Ordinance 2348, sec. 10, adopted 4/5/05)

**Sec. 1.09.010 Minimum fee for inspection of retail food establishment and license or permit for vendor**

Any person who desires to operate a retail food establishment must pay a minimum fee to the city for an inspection performed twice in one year for such establishment, and any person wishing to obtain a license or permit for a vendor must pay a minimum fee for the permit or license. (Ordinance 2348, sec. 11, adopted 4/5/05)

**Sec. 1.09.011 Minimum fees for mobile vendor or mobile food vendor permit or maps**

**for property**

Any person who desires to obtain a mobile vendor or mobile food vendor permit or maps for property within the corporate limits of the city must pay a minimum fee to the city for an inspection or permit for such establishment. (Ordinance 2348, sec. 12, adopted 4/5/05)

**Sec. 1.09.012 Fee for installation of street name and traffic-control signs within proposed subdivision**

Any subdivider of property within the city limits must pay a fee for the installation of street names and traffic-control signs within the proposed subdivision. (Ordinance 2348, sec. 13, adopted 4/5/05)

**Sec. 1.09.013 Disinterment fee**

Any person desiring disinterment from the city will pay a fee to the city. (Ordinance 2348, sec. 14, adopted 4/5/05)

**Sec. 1.09.014 Permit required to drill**

Any person, contractor or company desiring to drill must first obtain a permit from the city. (Ordinance 2348, sec. 15, adopted 4/5/05)

**Sec. 1.09.015 Adoption of fee schedule**

The city commission hereby finds that the fees attached to Ordinance 2348 as exhibit A are reasonable fees for the services provided and that the revised fee schedule attached to Ordinance 2348 as exhibit A is hereby adopted and is printed in appendix A to this code. (Ordinance 2348, sec. 16, adopted 4/5/05)

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<sup>i\*</sup> State law reference—Authority of municipality to codify ordinances, V.T.C.A., Local Government Code, ch. 53.

<sup>ii\*</sup> State law reference—Local and interjurisdictional emergency management, V.T.C.A., Government Code, ch. 418.

<sup>iii\*</sup> State law references—Subsurface excavations, V.T.C.A., Water Code, sec. 31.001 et seq.; municipal regulation of obstructions on streets, etc., V.T.C.A., Transportation Code, ch. 311; trench excavation in state, V.T.C.A., Health and Safety Code, sec. 756.022; trench excavation for political subdivision, V.T.C.A., Health and Safety Code, sec. 756.023.