

CHAPTER 6

HEALTH AND SANITATION

ARTICLE 6.01 GENERAL PROVISIONS

(Reserved)

ARTICLE 6.02 HEALTH OFFICER

Sec. 6.02.001 Office created; duties

The office of city health officer shall be and is hereby created with the duties provided by the laws.

Sec. 6.02.002 Appointment; compensation

Such officer shall be appointed as provided in the charter for other appointive officers, at such salary as the commission may fix and determine.

(Ordinance 133 adopted 2/7/24)

ARTICLE 6.03 TALL WEEDS, GRASS AND STAGNANT WATER^{i*}

Sec. 6.03.001 Weeds, rubbish, brush or other unsightly, objectionable or unsanitary matter

It shall be unlawful for any person, firm or corporation who owns or occupies any lot or lots within the city limits to allow weeds, rubbish, brush or other unsightly, objectionable or unsanitary matter to accumulate or grow on such lot or lots, including the adjoining rights-of-way and easements. Said person, firm or corporation violates this section if the grass and/or weeds exceed twelve inches (12") in length. (Ordinance 2117, sec. I, adopted 9/19/95)

State law reference—Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health and Safety Code, sec. 342.004 et seq.

Sec. 6.03.002 Stagnant water or wastewater

It shall be unlawful for any person, firm or corporation who owns or occupies any lot or lots within the city limits to permit or allow the accumulation of stagnant water or wastewater thereon, or to permit same to remain. (Ordinance 2117, sec. II, adopted 9/19/95)

State law reference—Municipal power concerning stagnant water and other unsanitary conditions, V.T.C.A., Health and Safety Code, secs. 342.001, 342.005 et seq.

Sec. 6.03.003 Carrion, filth or other impure or unwholesome matter

It shall be unlawful for any person, firm or corporation who owns or occupies any structure, house, building, establishment, lot or yard, including the adjoining rights-of-way and easements, to permit or allow any carrion, filth or other impure or unwholesome matter to accumulate or remain thereon. (Ordinance 2117, sec. III, adopted 9/19/95)

State law reference—Municipal power concerning filth, carrion and other unwholesome matter, V.T.C.A., Health and Safety Code, secs. 342.003, 342.005 et seq.

Sec. 6.03.004 Accumulations of water

It shall be unlawful for any person, firm or corporation who owns or occupies any lot or lots to permit or allow holes and places on said lots, including adjoining rights-of-way and easements, where water may accumulate and become stagnant, or to permit same to remain. (Ordinance 2117, sec. IV, adopted 9/19/95)

State law reference—Municipal power concerning stagnant water and other unsanitary conditions, V.T.C.A., Health and Safety Code, secs. 342.001, 342.005 et seq.

Sec. 6.03.005 Work done by city

(a) Should any owner in violation of any of the nuisances identified in sections 6.03.001 through 6.03.004 fail to take appropriate action within seven (7) days after said owner has been notified by the city, the city may abate and/or remove said nuisance and/or nuisances. (Ordinance 2117, sec. V, adopted 9/19/95; Ordinance adopting Code)

(b) In the event that any owner or occupant of any property, occupied or unoccupied, within the city fails to comply with the requirements of subsection (a) of this section, the city shall give notice of the violation to the owner as follows:

- (1) Personally to the owner in writing;
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
- (3) If personal service cannot be obtained:
 - (A) By publication at least once;
 - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; or

- (C) 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 the city mails a notice to the property owner in accordance with subsection (b) 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, the city 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 city without further notice may correct the violation at the owner’s expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period and the city has not been informed in writing by the owner of an ownership change, the city may, without notice, take any action permitted in this article and assess its expenses as provided in this article.

(Ordinance adopting Code)

(e) The expenses incurred by the city in doing such work, or having such work done, shall be charged to the owner of said lot or lots. Should said owner fail to pay such charges within thirty (30) days after notification by the city, a lien then shall be placed on the lot or lots for which such expenses were incurred. (Ordinance 2117, sec. V, adopted 9/19/95)

Sec. 6.03.006 Lien

The mayor or the designated city official shall file a statement of such expenses incurred under section 6.03.005 with the county clerk, stating the name of the owner, if known, the legal description of the property, the amount of such expenses, and the date on which said work was done. The city shall have a privileged lien on such lot or lots on which said work was done to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code, section 342.007, which said lien shall be second only to tax liens and liens for street improvements. Said amount shall bear ten-percent (10%) interest from the date said statement was filed. It is further provided that for any such expenditures, and interest, as aforesaid, suit maybe instituted and recovery and foreclosure of said lien may be had in the name of the city; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. (Ordinance 2117, sec. VI, adopted 9/19/95; Ordinance adopting Code)

Sec. 6.03.007 Penalty for violation

Any person, firm or individual who violates any of the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined as provided in section 1.01.009 of this code, and each and every day’s violation shall constitute a separate and distinct offense. In case the owner or occupant of any lot, lots or premises under the provisions of this article shall be a corporation, and shall violate any provision of this article, the president, vice-president, secretary, treasurer of such corporation, or any manager, agent or employee of such corporation

shall be also severally liable for the penalties herein provided. (Ordinance 2117, sec. VII, adopted 9/19/95)

Sec. 6.03.008 Authority to immediately abate dangerous weeds

(a) Notwithstanding any of the foregoing sections, the city may abate, without notification, weeds that:

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

(b) The city must give notice, in the manner provided in section 6.03.005, to the property owner no later than the tenth (10th) day after the date the city abates weeds under this section. The notification shall contain:

- (1) An identification, which is not required to be a legal description, of the property;
- (2) A description of the violation of this article that occurred on the property;
- (3) A statement that the city abated the weeds; and
- (4) An explanation of the property owner's rights to request an administrative hearing regarding the city's abatement of the weeds.

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

(d) The city shall conduct the administrative hearing not later than the twentieth (20th) day after the date a request for hearing is filed. At the administrative hearing, the owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(e) The city may assess expenses and create liens under this section in the same manner and subject to the same conditions as set forth in section 6.03.006 above.

(f) The authority granted the city by this section is in addition to the authority granted by section 6.03.005.

ARTICLE 6.04 SMOKING; TOBACCO PRODUCTS

Division 1. Generally

Secs. 6.04.001–6.04.030 Reserved

Division 2. Smoking in City-Owned Buildings and Recreational Areas^{ii*}

Sec. 6.04.031 Definition

Smoke or smoking. The carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, and the lighting of, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind. (Ordinance 2350, sec. I, adopted 4/5/05)

Sec. 6.04.032 Buildings and recreational areas where prohibited

Smoking shall be prohibited in [the following] buildings and recreational areas owned and occupied by the city for the purposes of public use:

- (1) Amigos Del Valle, 501 Diaz.
- (2) City Hall, 485 N. Sam Houston.
- (3) Public Library, 685 N. Sam Houston.
- (4) Police Department, 601 N. Williams.
- (5) Community Building, 210 E. Heywood.
- (6) Fire Station No. 1, 143 S. Reagan.
- (7) Fire Station No. 2, 340 N. Williams.
- (8) Fire Station No. 3, 1201 S. Sam Houston.
- (9) Water Plant, 420 W. Stenger.
- (10) Aztec Building, 402 W. Robertson.
- (11) Old Library, Narcisco Martinez Cultural Arts Center (Tourist Center).
- (12) San Benito Municipal Park (Stookey Baseball Field and parking area).

(13) San Benito Municipal Pool area
(Ordinance 2350, sec. II, adopted 4/5/05)

Sec. 6.04.033 Penalty for violation

Any person or employee who violates any of the provisions of this division shall be fined an amount of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00); provided, however, in the event a person has previously been convicted under this division, the person shall be fined an amount of not less than fifty dollars (\$50.00) nor more than

five hundred dollars (\$500.00) for each conviction thereafter. Each day that the violation is permitted to exist shall constitute a separate offense. (Ordinance 2350, sec. V, adopted 4/5/05)

ARTICLE 6.05 AMBULANCE AND EMERGENCY MEDICAL SERVICE PROVIDERS^{iii*}

Division 1. Generally

Sec. 6.05.001 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:

Advanced life support. Emergency pre-hospital care that uses invasive medical acts.

Ambulance. Any vehicle equipped or used for transporting wounded, injured or sick persons, but specifically excludes funeral coaches.

Basic life support. Emergency pre-hospital care that uses noninvasive medical acts.

Emergency ambulance. An ambulance used, designed or redesigned for the purpose of transporting the sick or injured, providing mobile intensive care unit, the rendering of first aid, and/or assisting in rescue operations while the vehicle is being operated under emergency conditions.

Emergency call. A request for ambulance service in which the element of time in transporting the sick, injured or wounded for medical treatment is essential to the health or life of such person.

Emergency circumstances. The existence of circumstances in which the element of time in transporting the sick, injured or wounded for medical treatment is essential to the health or life of such person.

Emergency medical service. The emergency ambulance trip to the place of emergency and rendering of basic and/or advanced life support assistance, and the transport to the hospital or other specified destination.

(Ordinance 2297, sec. 1, adopted 10/21/03)

Sec. 6.05.002 Purpose

The operation of ambulances and emergency medical services in the city requires regulation in order to avoid competitive speeding by ambulances and emergency medical service providers to the scene of emergencies, and is necessary in order to avoid traffic hazards, to minimize the danger of injury to persons and damage to property and to insure safe, efficient and affordable ambulance and emergency medical services are available in the city. (Ordinance 2297, sec. 2,

adopted 10/21/03)

Sec. 6.05.003 Violations

It is a violation of this article to:

- (1) Provide emergency ambulance services within the city or respond to an emergency call originating within the city without a contract with the city authorizing such conduct (the exceptions provided in section 6.05.032 and section 6.05.035(6) apply to this subsection as well);
- (2) Provide nonemergency ambulance services within the city without a permit issued by the city as provided in sections 6.05.061 and 6.05.062;
- (3) Operate an ambulance within the city which does not have all permits, licenses, insurance and inspections required by the state and the city;
- (4) Operate an ambulance within the city if the operator does not have all permits, licenses, and insurance required by the state and the city; or
- (5) Charge a fee in excess of the maximum rates set by the city.

(Ordinance 2297, sec. 11, adopted 10/21/03)

Sec. 6.05.004 Penalties

Any person found guilty of violating this article or any of its provisions shall be fined any sum not exceeding the amount allowed for a class C misdemeanor. Each and every day that the provisions of this article are violated shall constitute a separate and distinct offense. In addition to the penal remedy provided for 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.

(Ordinance 2297, sec. 12, adopted 10/21/03)

Secs. 6.05.005–6.05.030 Reserved

Division 2. Contract with Private Ambulance and/or Emergency Service Providers

Sec. 6.05.031 Authorized

The city may contract with one or more private ambulance and/or emergency service providers to provide ambulance and/or emergency services within the city. The city may enter into an exclusive contract with one or more such service providers establishing such providers as the exclusive sole providers authorized to operate within the city to further the purposes of this article. (Ordinance 2297, sec. 3, adopted 10/21/03)

Sec. 6.05.032 Exceptions

Such an exclusive contract will only include emergency calls originating within the city and will not include or restrict in any way ambulance and/or emergency service providers passing through the city or responding to an emergency call originating outside the city, even if the destination hospital is within the city. The exclusive contract further will not include or restrict in any way deliveries or transfers of persons from any rest home, clinic, hospital, convalescent home or other private institution which does not involve emergency or medical treatment essential to the health or life of such person. (Ordinance 2297, sec. 4, adopted 10/21/03)

Sec. 6.05.033 Permits and licenses required

Any ambulance and/or emergency service provider wishing to contract with the city to provide ambulance and/or emergency services in the city must have all permits and licenses required by the state to operate such a business. Additionally, all of the provider's ambulance drivers and all other employees must have all licenses and permits required by the state for the performance of their duties. (Ordinance 2297, sec. 5, adopted 10/21/03)

Sec. 6.05.034 Insurance required

Any ambulance and/or emergency service provider wishing to contract with the city to provide ambulance and/or emergency services in the city must obtain and have in force insurance coverage on each vehicle and providing coverage for property damage, bodily injury and death, errors and omissions coverage, indemnity insurance and such other insurance coverage as the city may require in amounts to be determined by the city. Certificates evidencing the required insurance shall be provided to the city before any contract is executed. (Ordinance 2297, sec. 6, adopted 10/21/03)

Sec. 6.05.035 Qualifications

Any ambulance and/or emergency service provider wishing to contract with the city to provide ambulance and/or emergency services in the city must:

- (1) Obtain and maintain throughout the term of the contract not less than two mobile intensive care level of service ambulance units to be available for emergency service at all times, twenty-four (24) hours a day, every day;
- (2) Have a minimum of two certified personnel, according to the department of state health services standards, assigned to each ambulance unit at all times;
- (3) Agree to provide CPR and first aid training to all city personnel at least once a year;
- (4) Agree to respond to any 911 or emergency call received from anyone within the city limits and the city's extraterritorial jurisdiction, if applicable;
- (5) Station its ambulances within the city limits in order to enable the ambulances to

provide an eight-minute average response time to any area within the city. The proposed locations and any proposed change in location for the station(s) shall be submitted to the city manager for his approval;

- (6) Be able to and agree that it shall respond to each emergency call within a reasonable time, not to exceed eight minutes, from the time it receives a request for emergency service. Should the ambulance and/or emergency service provider be unable to so respond upon receiving a call, it shall agree to call for backup service from another ambulance company, or call for a dispatch from the fire department, or both, to ensure that a timely response is provided. If the city has entered into an exclusive contract for ambulance and/or emergency services and another ambulance service is called for backup, the ambulance service responding to the call for backup is authorized to operate within the city while responding to the call for backup;
- (7) Comply with all insurance requirements established by the city under section 6.05.034 above; and
- (8) Agree to follow and abide by the established protocol procedures of the hospitals.

(Ordinance 2297, sec. 7, adopted 10/21/03)

Sec. 6.05.036 Maximum rates

The city may set the maximum rates to be charged by the ambulance and/or emergency service providers. (Ordinance 2297, sec. 8, adopted 10/21/03)

Secs. 6.05.037–6.05.060 Reserved

Division 3. Permit for Nonemergency Ambulance Service

Sec. 6.05.061 Required

Under the authority of the city's police powers and in order to avoid traffic hazards, to minimize the danger of injury to persons and damage to property and to insure safe operation of ambulances, every person desiring to provide nonemergency ambulance services, including deliveries or transfers of persons from any rest home, clinic, hospital, convalescent home or other private institution that does not involve emergency or medical treatment essential to the health or life of such person within the city must have a permit issued by the city for such services. The applicant shall make application, in writing, on a form provided for that purpose, to the chief of police for a permit to engage in the nonemergency ambulance business for each ambulance proposed to be operated, and such application shall contain the name, address, telephone number, the number and types of ambulances to be operated and the true owner of the company concerned. Every application when filed shall be sworn to by the applicant. (Ordinance 2297, sec. 9, adopted 10/21/03)

Sec. 6.05.062 Issuance; minimum requirements

The chief of police, or his representative, shall issue a permit to engage in the nonemergency ambulance business to all applicants complying with the provisions of this article and shall issue a permit for all ambulances of such applicants so complying. No permit authorizing the nonemergency operation of an ambulance on the streets of the city shall be issued unless the following requirements are met:

- (1) The nonemergency ambulance service provider must comply with the following minimum safety requirements:
 - (A) Have all permits required by the state to operate such a business;
 - (B) Have all licenses required by the state to operate such a business; and
 - (C) Have all insurance required by the state to operate such a business.
- (2) All of the nonemergency ambulance service provider's ambulance drivers and employees must comply with the following minimum safety requirements:
 - (A) Have all permits required by the state for the performance of their duties;
 - (B) Have all licenses required by the state for the performance of their duties; and
 - (C) Have all insurance required by the state for the performance of their duties.
- (3) All ambulances to be operated within the City by the nonemergency ambulance service provider must comply with the following minimum safety requirements:
 - (A) Have all permits required by the state for such a vehicle;
 - (B) Have all licenses required by the state for such a vehicle;
 - (C) Have all insurance required by the state for such a vehicle; and
 - (D) Have all safety or other inspections required by the state for such a vehicle.
- (4) Fees.
 - (A) There is hereby imposed an annual fee of \$250.00 for each nonemergency ambulance service provider.
 - (B) There is hereby imposed an inspection fee of \$150.00 per ambulance vehicle.
 - (C) All fees are nonrefundable.
 - (D) Annual renewal applications may be submitted between November 1 and

January 31 of each year. A certificate of insurance and fees shall be submitted with the written renewal application. Regardless of when a renewal application is submitted, the renewal permit will be from February 1 through January 31.

- (E) A late fee of \$50.00 will be charged if the completed renewal permit application is not filed or postmarked by midnight, January 31 of each year.

(Ordinance 2297, sec. 10, adopted 10/21/03)

^{i*} State law reference—Local regulation of sanitation, V.T.C.A., Health and Safety Code, ch. 342.

^{ii*} State law reference—Smoking tobacco in certain public places or conveyances, V.T.C.A., Penal Code, sec. 48.01.

^{iii*} State law references—Emergency medical services, V.T.C.A., Health and Safety Code, ch. 773; local provision of emergency medical services, V.T.C.A., Health and Safety Code, ch. 774.