

CHAPTER 8

OFFENSES AND NUISANCES

ARTICLE 8.01 GENERAL PROVISIONS^{i*}

Sec. 8.01.001 Abandoned refrigerators, iceboxes and similar containers

- (a) It shall be unlawful for any person, firm or corporation in the city to place or allow to be placed outside any building or dwelling in a location accessible to children any discarded or abandoned refrigerator, icebox or other similar container with a door or doors that may become locked.
- (b) Discarded or abandoned refrigerators, iceboxes and similar containers with doors that may become locked, located or allowed to be located on premises outside buildings or residences and accessible to children are hereby declared to be dangerous and to constitute a public nuisance and a serious menace to life, since it is generally known that children of tender years are likely to enter and become locked in said airtight containers.
- (c) The duties of this section are imposed alike on the owner of the refrigerator, icebox or other container, and the owner or occupant of premises where the receptacle is permitted to remain.
- (d) Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, be fined in accordance with the general penalty in section 1.01.009 of this code, and each day's violation of said section shall constitute a separate offense.

(Ordinance 596 adopted 11/6/53)

State law reference—Regulation of abandoned refrigerators, freezers, and similar containers, V.T.C.A., Health and Safety Code, sec. 756.011 et seq.

ARTICLE 8.02 NUISANCES GENERALLY

Sec. 8.02.001 Findings

Unless expressly exempted herein, the placement of any structure, equipment, material or substance, including but not limited to debris, garbage, brush, rubbish, trash, building materials, furniture, and appliances and mechanical items of any kind, on any part or portion of a public or private street, sidewalk, walkway, alley, public right-of-way, utility or other easement, or on a place immediately adjacent thereto, where it is visible from a public place or public right-of-way, is:

- (1) A public nuisance and a detriment in the safety and welfare of the general public;
- (2) Tends to reduce the value of private property;
- (3) Invites vandalism;
- (4) Creates fire hazards;
- (5) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
and
- (6) Is detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city.

(Ordinance 2225, sec. 1.00, adopted 9/19/95)

Sec. 8.02.002 Definitions

The following definitions shall apply to this article:

Head of family or household.

- (1) The father or mother in a family, then residing in, or in possession or control of, a building, lot or property; or
- (2) If no father or mother, then the oldest member of the family or household, then residing in, or in possession or control of, a building, lot or property.

Immediately adjacent. Immediately next to.

Occupant.

- (1) The record owner of a building, lot, or property:
 - (A) If the record owner (whether one or more) is a current occupant;
 - (B) If the building, lot, or property is unoccupied or abandoned; or
 - (C) If the building, lot, or property is occupied by more than one family or tenant, whether authorized by the record owner or not.
- (2) The tenant of a building, lot or property if the record owner is not a current occupant of the building, lot, or property, and there is only one family occupying the property.

Tenant. When used in connection with the use or occupancy of a building, lot, or property, shall mean the head of the family or household.

(Ordinance 2225, sec. 2.00, adopted 9/19/95)

Sec. 8.02.003 Dumping substances and material unlawful

(a) Violation defined. It shall be unlawful for any person to:

- (1) Build or construct, or permit, any structure including garbage bins or racks to be used to hold garbage receptacles, to remain upon; or
- (2) Sweep, throw, dump, place, deposit, or permit any material or substance including, but not limited to, debris, garbage, rubbish, brush, trash, building materials, furniture, appliances, and mechanical items to accumulate upon or along any:
 - (A) Drain;
 - (B) Gutter;
 - (C) Alley;
 - (D) Sidewalk;
 - (E) Street;
 - (F) Street right-of-way; or
 - (G) Portion of any vacant lot between the street curb and the fence or property line unless this article otherwise so permits or expressly exempts.

(b) Fines. A violation shall be punishable by a fine as provided in the general penalty in section 1.01.009 of this code for each violation. Each day that a violation continues shall constitute a separate violation.

(c) Exemptions. The following acts are exempt from prosecution and shall constitute a complete defense hereunder:

- (1) If a person places the material or substance in a suitable receptacle as set out in section 8.02.004 at a location under the orders or instructions of the city which may be issued in writing, posted or published notice thereof given;
- (2) If a person places the material or substance for a reasonable temporary period, not to exceed five (5) business days for pickup by the city or another with whom the person has made specific arrangements for pickup within no later than five (5) business days, or
- (3) If the structure placed on a right-of-way is a U.S. post office mailbox constructed in

accordance with a building permit granted by the city.

Exemption shall not be improvidently granted by the court. The burden of proof on an exemption claim shall lie with the occupant.

(d) Determination of occupant; rebuttable presumption. It shall be rebuttably presumed that the owner of any structure, material or substance which has been placed or allowed to accumulate as prohibited under this section is the occupant of the lot, building or property to which the structure, material or substance is immediately adjacent.

(Ordinance 2225, sec. 3.00, adopted 9/19/95)

Sec. 8.02.004 Garbage and brush placement exempt in certain receptacles

The temporary placement of garbage receptacles on a street right-of-way by an occupant shall be exempt if the following conditions and requirements have been complied with:

- (1) Standards for receptacles. Garbage receptacles must meet the following requirements:
 - (A) Be a watertight receptacle of a solid and durable grade and quality of plastic, metal or other durable material, or a watertight, sealable plastic bag with a maximum capacity of 30 gallons;
 - (B) If a can-type receptacle:
 - (i) It must be equipped with handles of sufficient size and strength for city workmen and equipment to conveniently empty such containers; and
 - (ii) It must not have any inside structures, such as inside bands or reinforcing angles, or anything within the container to prevent free and easy discharge of contents.

Containers that have deteriorated, have holes, jagged or sharp edges capable of causing injury to garbage and trash collectors or workmen or have lids or covers that will not fit securely do not satisfy this exemption and may be abated by the city.

- (2) Placing receptacles and trash for collection.
 - (A) It shall be the duty of every occupant of the lot, building or property adjacent to a right-of-way or other location from which the garbage or trash is to be collected to place the garbage receptacle at a location on the street right-of-way:
 - (i) Between the street curb and the fence or property line; and/or
 - (ii) Where it may be easily accessible to the person or equipment collecting and removing trash or garbage.

- (B) In the event it is not practicable to collect and remove the garbage receptacle from a street right-of-way, the occupant of the premises shall place the receptacle at such location on his property as the city shall assign and designate as the most convenient and accessible.
 - (C) At no time shall the receptacle be placed so that any alley, drain, gutter, sidewalk, street, or street right-of-way will be blocked or obstructed from the city's garbage collection equipment.
- (3) Placing brush for collection.
- (A) It shall be the duty of every occupant of the lot, building or property adjacent to a right-of-way or other location from which the brush is to be collected to place the garbage receptacle at a location on the street right-of-way at a location:
 - (i) Between the street curb and the fence or property line; and/or
 - (i) Where it may be easily accessible to the person or equipment collecting and removing trash or garbage.
 - (B) Brush shall be placed by the occupant either in receptacles, accessible stacks or piles as herein set out to facilitate removal of same.
 - (C) It shall be unlawful for brush and debris to be placed on the right-of-way (between curb and property line) more than five (5) business days prior to the pickup date.
 - (D) Brush, leaves, and cuttings must be prevented from blowing or scattering.
 - (E) Leaves, hedge and shrub cuttings and small loose material shall be placed in approved receptacles as set out in subsection (1).

(Ordinance 2225, sec. 4.00, adopted 9/19/95)

Sec. 8.02.005 Authority to file complaints; undertaking abatement

- (a) The city, through its authorized officers, may issue a complaint with the municipal court for a violation of this article.
- (b) A complaint shall be issued for each separate day for which a violation continues.
- (c) In addition, the city may employ its own personnel, equipment, and facilities or contract with an independent contractor to provide personnel, equipment, and facilities to abate a nuisance and remove any material or substance whose presence constitutes a violation hereof. In furtherance hereof, the city manager is authorized to adopt a rate schedule to compensate the city

for its reasonable costs to remove a nuisance.

(d) If the city proceeds to abate a nuisance or if an occupant of a building, lot or property voluntarily requests abatement of a nuisance by the city or an abate order, the enforcement officer is directed to:

- (1) Engage the services of the city attorney to draw up an agreement for abatement and reimbursement of costs and expenses to the city; and
- (2) Recommend to the court the reduction of fine amounts for voluntary abatement.

(Ordinance 2225, sec. 5.00, adopted 9/19/95)

Sec. 8.02.006 Abatement procedures; responsibility of code enforcement officer; notification of occupant

(a) Responsibilities of code enforcement officer.

- (1) Procedures for abatement and removal of a nuisance pursuant to this article shall be administered by the code enforcement officer of the city.
- (2) The code enforcement officer is authorized to administer these procedures and may enter a premises for the sole purpose of examining a nuisance as specifically defined herein, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance. No authority is granted herein for any city employee to enter any residence, place of abode, business or structure unless:
 - (A) Express permission has been granted by occupant; or
 - (B) The entry is pursuant to a search warrant issued by a court of law.
- (3) In order to undertake abatement of a nuisance on premises, which the city may undertake, in addition to filing a complaint, the city shall comply with the following procedures:
 - (A) The nuisance must be removed and abated not later than the 10th day after the date on which the notice was given, mailed, or published.

(b) Abatement action.

- (1) A request for an administrative hearing by an occupant to challenge the notice of abatement must be made before expiration of the 10-day period.
- (2) If an administrative hearing is timely requested by an occupant, the code enforcement officer shall conduct a public administrative hearing under procedures adopted under this section.

- (3) If a hearing is requested by a person for whom notice is required, the hearing shall be held as soon as reasonably possible but no later than 3 business days from the date of the request. A hearing may be held in person, via telephone, or written correspondence.
 - (4) At the hearing, the violation of this article shall be presumed upon:
 - (A) The existence of a written complaint; and
 - (B) An independent written verification by the code enforcement officer, unless demonstrated otherwise by the occupant.
 - (5) The ruling shall be provided to the occupant and entry thereof shall be immediately made in writing.
- (c) Appeal from decision of code enforcement officer.
- (1) Any aggrieved occupant may appeal a decision of abatement by the code enforcement officer, and the code enforcement officer shall advise the occupant of the final ruling and of the occupant's right to appeal. Notice of appeal must be in writing delivered to the enforcement office and to the municipal court clerk.
 - (2) All appeals shall be to the municipal court. An appeal of a decision must be filed within the next business day after the ruling is made by the code enforcement officer. No appeal may be had unless the occupant has complied with the requirements hereof.

(Ordinance 2225, sec. 6.00, adopted 9/19/95)

Sec. 8.02.007 Administrative organization and procedure

- (a) Enforcement staff and reporting system.
- (1) The city manager or his designee(s) shall administer the provisions of this article.
 - (2) The city manager or duly authorized persons shall have the right to make inspections of premises to carry out the duties in the enforcement of this article.
 - (3) If the city manager, or the authorized representative(s), shall find or if any person advises the city of a complaint alleging that any provision of this article is being violated, he shall investigate such claims and when necessary give written notice to the person responsible to cease such violation. If such reasonable efforts are made to discontinue the actions violating a portion of this article and the property owner does not comply, the city manager or authorized representative(s) shall have the authority to cite the property owner to municipal court.

- (4) The city manager is ordered to recommend to the city commission the organizational structure for aggressive enforcement of this article including the following:
- (A) Titles of persons directly responsible for the enforcement;
 - (B) Job descriptions for those positions, outlining the responsibility for enforcement;
 - (C) Forms and procedures to be used in connection with the enforcement; and
 - (D) A scheduled reporting evaluation system to enable the city commission to evaluate the enforcement program.

(b) Determination of abatement costs. The city manager shall prepare and submit to the city commission for adoption a schedule of standard and reasonable fees and charges to be levied against an occupant by the city for abatement of a nuisance hereunder.

(Ordinance 2225, sec. 7.00, adopted 9/19/95)

ARTICLE 8.03 FIREARMS^{ii*}

Sec. 8.03.001 Definitions

Explosive device. Any device which, by design or use, is capable of causing injury, death or property damage by explosion, rapidly expanding compressed gasses, or any other chemical means, including, but not limited to, bombs, blasting caps and detonation cord. (Ordinance adopting Code)

Firearm. Any device which, by design or use, causes a projectile to accelerate by the rapid expansion of gasses, explosion or other chemical means, with the projectile or projectiles being greater than one-tenth of one inch (0.10") in diameter, including but not limited to pistols, rifles, shotguns, machine guns, pellet guns and BB guns.

Shooting range. A facility or area designed for the purpose of safe shooting of firearms in a controlled environment, under the supervision of an employee or representative of the operator of the facility permitted to operate such facility within the incorporated limits or extraterritorial jurisdiction of the city, or a like facility owned, operated or maintained by a governmental agency.

Sec. 8.03.002 Discharge of firearms or explosives prohibited

No person shall discharge any firearm or explosive device within the incorporated limits or extraterritorial jurisdiction of the city at any time, with the exception of those listed in section 8.03.003.

Sec. 8.03.003 Exceptions

Firearms may be discharged:

- (1) In the performance of official duties of any police officer;
- (2) In the performance of official duties of any active or reserve member of the armed forces of the United States of America, or state military forces;
- (3) In the performance of official duties of any licensed security guard;
- (4) In the performance of official duties of any government employee responsible for destroying dangerous or stray animals;
- (5) At a permitted shooting range, or shooting range owned, operated or maintained by a government agency, for the purpose of training, target practice or competitive sport shooting; or
- (6) In defense of one's own life or the life of another person while on one's own private property, according to current state law.

Sec. 8.03.004 Penalty for violation

Any person convicted for any violation of this article shall be fined in accordance with the general penalty in section 1.01.009 of this code.

(Ordinance 2055 adopted 2/18/93)

ARTICLE 8.04 NOISE

Sec. 8.04.001 Amplifiers; loudspeakers

(a) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice, or any other sound, on any public street within the corporate limits of the city unless the city shall issue a special permit for a noncommercial loudspeaker, same to be operated under the supervision of the chief of police.

(b) Any person who desires to use or operate any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce human voice or any other sound on any public street within the corporate limits of the city must secure, in advance of such activity, a permit from the chief of police. In any case where a permit is refused by said chief of police, the refused party shall have a right to appeal to the city commission. The appeal must be in writing and filed with the city secretary within twenty-four (24) hours of refusal by the chief

of police of the permit. Hearings on such appeals shall be held within twenty-four (24) hours of the filing of such appeal.

(Ordinance 857 adopted 4/19/72)

(c) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice, or to produce, reproduce, intensify or amplify any other sound, in any building, on any street or on any premises in the city, whereby the sound therefrom is cast directly upon the public streets or places or where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public, or which is so placed or operated that the sounds coming therefrom cause material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity, except under permits set out above. (Ordinance 857 adopted 4/19/72; Ordinance adopting Code)

(d) The purpose of this section is to prevent any noise in or near any public street which is reasonably calculated to disturb the peace and good order of the neighborhood or of persons owning, using or occupying property adjacent to such public streets.

(e) Every person convicted of the violation of this section shall be punished by a fine in accordance with the general penalty in section 1.01.009 of this code.

(Ordinance 857 adopted 4/19/72)

ARTICLE 8.05 ABANDONED AND JUNKED VEHICLES^{iii*}

Division 1. Generally

Sec. 8.05.001 Definitions

Abandoned motor vehicle. A motor vehicle that:

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

controlled-access highway. For the purpose of this subsection (5), “controlled-access highway” has the meaning assigned by V.T.C.A., Transportation Code, section 541.302.

(Ordinance adopting Code)

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

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

Junked vehicle. Every self-propelled mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck-tractors, trailers, semitrailers, motorcycles, and motorbikes, severally, and as further defined in V.T.C.A., Transportation Code, section 683.071, and as amended; but excepting devices moved by human power or used exclusively upon stationary rails or tracks, which is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked; or dismantled; or partially dismantled; or discarded.

Motor vehicle. Any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

Police department. The police department of the city.

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

(Ordinance 2352, sec. 2, adopted 4/19/05)

Sec. 8.05.002 Authority to enforce

Any city police officer or the city sanitarian or the city building inspector may enter upon private property for the purposes specified in this article to examine vehicles or parts thereof, to obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article. (Ordinance 2352, sec. 15, adopted 4/19/05)

Sec. 8.05.003 Immediate removal of vehicle causing obstruction to traffic

Nothing in this article shall affect statutes that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic. (Ordinance 2352, sec. 16, adopted 4/19/05)

Sec. 8.05.004 Penalty for violation

A violation of any of the provisions hereof shall constitute a misdemeanor and, upon conviction, thereof, in the municipal court, [the person shall] be subject to fine in an amount as provided in section 1.01.009 of this code. (Ordinance 2352, sec. 17, adopted 4/19/05; Ordinance adopting Code)

Secs. 8.05.005–8.05.030 Reserved

Division 2. Abandoned Motor Vehicles

Sec. 8.05.031 Authority to take possession

The police department may take into custody any abandoned motor vehicle found on public or private property. In such connection, the police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purposes of removing, preserving, and storing abandoned motor vehicles. (Ordinance 2352, sec. 3, adopted 4/19/05)

Sec. 8.05.032 Notification of owner and lienholders

(a) When the police department takes into custody an abandoned motor vehicle, it shall notify, within 10 days thereof by registered or certified mail, return receipt requested, the last known registered owner of such motor vehicle and all lienholders of record pursuant to the Certificate of Title Act (V.T.C.A., Transportation Code, chapter 501), as amended, that the vehicle has been taken into custody.

The notice shall describe the year, make, model, and serial number of the abandoned motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within 20 days after the date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

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

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle shall be as set forth in a valid notice given pursuant to this section.

(Ordinance 2352, sec. 4, adopted 4/19/05)

Sec. 8.05.033 Auction or use of vehicle by police department

(a) If an abandoned motor vehicle has not been reclaimed as provided for in section 8.05.032 of this article, the police department may sell the vehicle at a public auction or may use the vehicle as provided by the following: The police department taking an abandoned motor vehicle into custody that is not claimed under this article may use the vehicle for law enforcement agency purposes. The police department shall auction the vehicle as provided by this article if the police department discontinues use of the vehicle. This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.

(b) The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department and shall be entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle the police department shall reimburse itself for the expenses of the auction, the cost of towing, preserving, and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to section 8.05.032. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days, and then shall be deposited in a special fund which shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs.

(Ordinance 2352, secs. 1, 5, adopted 4/19/05)

Sec. 8.05.034 Disposal to demolishers

(a) Any person, firm, corporation, or unit of government upon whose property in the city or in whose possession in the city is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may apply to the police department for authority to sell, give away, or dispose of the vehicle to a demolisher.

(b) The application shall set out the name and address of the applicant; the year, make, model, and serial number of the motor vehicle, if ascertainable, together with any other identifying features; and shall contain a concise statement of the facts surrounding the abandonment, or that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged therein are true and that no material fact has been withheld.

(c) If the police department finds that the application is executed in proper form, and shows that the motor vehicle has been abandoned upon the property of the applicant or if it shows that the motor vehicle is not abandoned but that the applicant appears to be the rightful owner, the police department shall follow the notification procedures set forth in section 8.05.032 of this article.

(d) If any such abandoned motor vehicle is not reclaimed in accordance with section 8.05.032, the police department shall notify the state department of transportation, which shall issue the applicant a certificate of authority to sell the motor vehicle to any demolisher for demolition, wrecking or dismantling. The demolisher shall accept such certificate in lieu of the certificate of title to the motor vehicle.

(Ordinance 2352, sec. 6, adopted 4/19/05)

(e) Any person, firm, corporation, or unit of government upon whose property in the city or in whose possession in the city is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher without that title and without notification procedures of section 8.05.032 of this article if the motor vehicle is over five years old and has no engine or is otherwise totally inoperable. (Ordinance 2352, sec. 6, adopted 4/19/05; Ordinance adopting Code)

Secs. 8.05.035–8.05.060 Reserved

Division 3. Junked Vehicles

Sec. 8.05.061 Public nuisance declared

Junked vehicles which are located in any place in the city where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the citizens of the city, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city by producing blight, which is adverse to the maintenance and continuing development of the city, and such vehicles are, therefore, declared to be a public nuisance. (Ordinance 2352, sec. 7, adopted 4/19/05)

Sec. 8.05.062 Disposal

Junked vehicles or parts thereof may be disposed of by the city by the removal thereon to a scrap yard, demolisher or any suitable site operated by the city for processing scrap or salvage. (Ordinance 2352, sec. 8, adopted 4/19/05)

Sec. 8.05.063 Notice; hearing

When the city sanitarian or the city building inspector or any city police officer determines the existence of a junked vehicle within the city, the city shall notify the last known registered owner of such junked vehicle and all lienholders of record, pursuant to the Texas Certificate of Title Act, with such notice to be by registered or certified mail, return receipt requested, and notifying such registered owner that such junked vehicle must be removed from the city or to a demolisher or lawful junkyard in the city within 10 days from the date of such notice, failing which, the city will, by its officials, so remove or dispose of such junked vehicle. Such notice shall further

provide that the registered owner of such junked vehicle, or the owner or occupant of the premises on which such junked vehicle is located, may request a hearing by the building inspector of the city to determine whether or not such alleged junked vehicle does, in fact, constitute a junked vehicle under the provisions hereof and, thereby, be subject to removal and abatement, as provided hereunder. Such hearing to be effective and granted must be requested within 10 days after the service of such written notice. The building inspector, upon receipt of request of such public hearing, shall forthwith notify such applicant of the time, date and place of such public hearing, which shall be within 10 days (exclusive of holidays, Saturdays and Sundays) of the date of delivery of such notice of the holding of such hearing. Upon the completion of such hearing, the building inspector shall determine whether or not such alleged junked vehicle is, in fact, a junked vehicle under the terms of this article, and subject to removal and abatement under the terms of this article. (Ordinance 2352, sec. 9, adopted 4/19/05)

Sec. 8.05.064 Order requiring removal; disposal by city

In the event the building inspector determines that such alleged junked vehicle is, in fact, a junked vehicle and subject to removal and abatement under the terms hereof, he shall issue a written order requiring the immediate removal and abatement of such junked vehicle, which order shall include a description of such vehicle and the correct identification number and license number of such vehicle, if available, at the site of such vehicle, with such order being delivered to the registered owner thereof, if known and located. In the event such junked vehicle is not removed and abated within 5 days from the date of such order of the city building inspector, it shall be disposed of by city officials, as provided for in section 8.05.062 hereof (Ordinance 2352, sec. 10, adopted 4/19/05)

Sec. 8.05.065 Reconstruction or repair of vehicle

When a junked vehicle has been removed and disposed of, as provided for under section 8.05.062 hereof, it shall not thereafter be reconstructed or made operable. (Ordinance 2352, sec. 11, adopted 4/19/05)

Sec. 8.05.066 Notice to state

Upon the removal and abatement of any junked vehicle hereunder by the officials of the city, the city shall forward notice, within 5 days after such removal, to the state department of transportation, Austin, Texas, setting forth the available identification of such junked vehicle and advising of its removal and abatement. (Ordinance 2352, sec. 12, adopted 4/19/05)

Sec. 8.05.067 Exemptions

This article shall not apply to a junked vehicle or part thereof which is completely enclosed within a building in a lawful manner and which is not visible from the street or other public or private property; nor shall it apply to a vehicle or a part thereof which is stored or parked in a lawful manner on private property lawfully operated as a licensed vehicle dealer or junk dealer. (Ordinance 2352, sec. 13, adopted 4/19/05)

Sec. 8.05.068 Final disposition of vehicle

In the event the city commission determines that commercial channels for disposition of junked vehicles with the city are not available or inadequate, the city, upon such determination, may make final disposition of such junked vehicles or parts thereof or it may transfer such vehicles or parts thereof to another, with such transfers to be only as scrap or salvage and that the same may not be reconstructed or made operable. (Ordinance 2352, sec. 14, adopted 4/19/05)

ARTICLE 8.06 ILLEGAL DUMPING; LITTER^{iv}*

Division 1. Generally

Sec. 8.06.001 Littering by distributing advertising

(a) It shall be unlawful for any person, firm or corporation to distribute circulars, handbills, posters or any other form of advertising matter printed on paper on any of the streets or sidewalks of the city. Provided that nothing in this section contained shall prohibit the sale of newspapers, periodicals and magazines or the distribution of them, or any of them, to the regular subscribers for same.

(b) It shall be unlawful for any person, firm or corporation to place or throw in the automobiles or other vehicles belonging to any other person any circulars, handbills or any advertising material of any kind or character whatsoever.

(c) It shall be unlawful for any person, firm or corporation to drop, throw, sweep or leave any paper, trash, or refuse of any kind or character whatsoever upon any street or sidewalk in the city.

(Ordinance 225 adopted 5/5/26)

(d) Enforcement of the provisions of this section shall be carried out in a content-neutral manner with no emphasis being placed on the substance or content of the material or activity prohibited. Emphasis shall be placed upon the legitimate interest of the city to reduce and prevent litter upon the streets of the city. (Ordinance adopting Code)

(e) Any person, firm or corporation violating or causing to be violated any provision in this section shall upon conviction be fined in accordance with the general penalty in section 1.01.009 of this code. (Ordinance 225 adopted 5/5/26)

Secs. 8.06.002–8.06.030 Reserved

Division 2. Illegal Dumping

Sec. 8.06.031 Illegal emptying or interfering with receptacle

It shall be unlawful for any person, firm or corporation, except agents, servants or employees of the city charged with such duty or responsibility, or agents, servants or employees of the person, firm or corporation having a contract or franchise with the city for such purpose to remove from any solid waste container or other receptacle any garbage, trash, refuse or other solid waste material of any kind, or any way interfere with any such container or receptacle; provided, however, the provisions of this section shall not apply to any owner or occupant of premises on which any such container or receptacle is located.

Sec. 8.06.032 Deposits in containers or receptacles without consent of responsible party

It shall be unlawful for any person, firm or corporation to place or cause to be placed in any solid waste container or receptacle within the city any garbage, trash, refuse or other solid waste without first having obtained the consent of the owner, agency, lessee, tenant, or occupant of any residence, business, commercial or industrial establishment whose duty and responsibility it is to provide and maintain the solid waste container or receptacle.

Sec. 8.06.033 Confinement of contents in containers

The contents of all containers shall be protected so that the contents cannot be blown out and scattered over the streets, alleys and premises within the city.

Sec. 8.06.034 Illegal accumulations or deposits; nuisance declared

It shall be unlawful for any person, firm or corporation to place, deposit, or throw, or permit to accumulate in such manner as to cause or emit noxious, disagreeable or offensive smells or odors, or permit or cause to be placed, deposited or thrown any garbage, brush, loose waste, manure or refuse or solid waste of any kind, on any public or private property outside of any premises within the city, unless the same has been deposited in accordance with the provisions of this division.

(Ordinance 2058 adopted 4/6/93)

ARTICLE 8.07 ALCOHOLIC BEVERAGES^V*

Sec. 8.07.001 Possession or consumption in city parks

- (a) It shall be unlawful for any person to possess or consume alcoholic beverages within any city park in the corporate limits of the city.
- (b) The possession and consumption of alcoholic beverages shall be permitted within the fence enclosed area of the Stookey Park Pavilion and adjacent parking lot in conjunction with an activity conducted by a group contracting with the city and paying a fee for the use of such pavilion.
- (c) The parks department of the city shall install signs at city parks notifying the public of the

provisions of this section.

(d) An offense of this section is punishable with a penalty as provided in section 1.01.009 of this code per violation committed.

(Ordinance 2115, secs. I–IV, adopted 8/1/95)

Sec. 8.07.002 Consumption in central business district

(a) Definitions.

Central business district. The area starting at the intersection of Sam Houston Boulevard and Robertson; west on Robertson to Hidalgo; on Hidalgo north to Combes Street; on Combes Street northeast to Stenger Street; on Stenger Street east to Sam Houston Boulevard; on Sam Houston Boulevard south to Robertson Street to the starting point. Additionally, on Williams Road from north frontage of Expressway 77/83 to Business 77 and on Sam Houston from north frontage of Expressway 77/83 to Business 77.

Open container. A container that is no longer sealed which contains an alcoholic beverage.

Pedestrian. Any person standing, walking, or traversing any public roadway, park, sidewalk, or alley, including public and private parking lots within the central business district.

(b) Violations. It shall be unlawful for a pedestrian to possess an open container of an alcoholic beverage or to consume an alcoholic beverage in the central business district, except as provided in subsection (c) below.

(c) Exceptions. The following are exceptions to the violation listed above:

- (1) When the pedestrian is inside of a private vehicle, when not in violation of any other law or ordinance.
- (2) When the pedestrian is inside of a building, not owned or controlled by the city, or is within the boundaries of its property.
- (3) When the pedestrian is inside of a business establishment, currently licensed and permitted for sale of alcoholic beverages.
- (4) When the pedestrian is participating in any special event, approved by the city, when appropriately licensed and permitted for that event, and in the area designated for that event.

(d) Enforcement. The provisions of this section are enforceable by any peace officer, or any other employee designated to enforce city ordinances. Violation of this section is a class C misdemeanor, punishable by fines in amounts as provided in section 1.01.009 of this code per violation, per day.

(Ordinance 2185, secs. I–IV, adopted 6/3/98)

ARTICLE 8.08 MINORS

Division 1. Generally

Secs. 8.08.001–8.08.030 **Reserved**

Division 2. Curfew During School Hours^{vi*}

Sec. 8.08.031 **Offenses**

- (a) A minor commits an offense if he or she remains in or upon any street, other public place, or establishment within the city during the school hours of 7:30 a.m. to 3:30 p.m., Monday through Friday.
- (b) A parent of a minor commits an offense if he or she knowingly permits or, by insufficient control, allows the minor to remain in or on any street, public place or on the premises of any establishment during the school hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during the school hours.

(Ordinance 2161, sec. I, adopted 4/15/97)

Sec. 8.08.032 **Defenses**

- (a) It is a defense to prosecution under section 8.08.031 that the minor was:
 - (1) Accompanied by the parent or an adult of such minor.
 - (2) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; provided the minor first has given notice to the city manager or the chief of police by delivering a written communication signed by the minor and, if practicable, countersigned by a parent of said minor, specifying when, where, in what manner, and for what First Amendment purpose the minor will be on the streets, a public place or establishment during the curfew period.
- (b) It is a defense to prosecution under section 8.08.031(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during the school hours and refused to leave.

(Ordinance 2161, sec. II, adopted 4/15/97)

Sec. 8.08.033 Enforcement

- (a) A police officer, upon finding a minor in violation of section 8.08.031(a), shall:
- (1) Ascertain the name and address of the minor;
 - (2) Issue to the minor a written warning or field release citation for being in violation of section 8.08.031(a); and
 - (3) Order the minor to go promptly home by a direct route.
- (b) Notwithstanding subsection (a) of this section, a police officer, upon finding a minor in violation of section 8.08.031, may take the minor into custody and deliver the minor to a holding location if:
- (1) The minor has received two previous written warnings or field release citations for violations of section 8.08.031;
 - (2) Reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indicating a need for supervision in accordance with section 51.03 and section 52.01 of the Texas Family Code; or
 - (3) The minor is unable to or refuses to fully identify himself by full name and address so as to enable the police officer to verify the same.
- (c) When a minor is taken into custody under this section, the police department shall immediately notify a parent or legal guardian to pick up the minor at the holding location. After the parent or legal guardian arrives at a holding location and provides the information required by the police officer to file an incident report, the minor shall be released into the custody of the parent. If a parent or legal guardian cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities.
- (d) If a minor is not taken into custody for a violation of section 8.08.031(a), the police department shall by certified mail, return receipt requested, notify a parent or legal guardian of the minor that the minor has violated section 8.08.031(a) and include a warning that any subsequent violation may result in prosecution of the minor and the parent under this section. If the minor was found in violation of section 8.08.031(c) at an establishment, the police department shall by certified mail, return receipt requested, notify the owner, operator, or employee of the establishment of the violation and may include a warning that any subsequent violation may result in prosecution of the owner, operator, or employee under this division.
- (e) A police officer shall, within 24 hours after finding a minor in violation of section 8.08.031, file a written report on the incident or assist to the extent possible in the preparation and filing of the report by a supervisor.

(Ordinance 2161, sec. III, adopted 4/15/97)

Sec. 8.08.034 Penalties

(a) Any minor who violates section 8.08.031 of this division:

- (1) A first time, may be prosecuted in municipal court, and if convicted is subject to punishment by a fine of not less than \$50.00 nor more than \$200.00.
- (2) A second time, may be prosecuted in municipal court, and if convicted is subject to punishment by a fine of not less than \$200.00 nor more than \$500.00.
- (3) A third or subsequent time within any 24-month period, is subject to appropriate action by a juvenile court in accordance with chapters 51 and 52 of the Texas Family Code. A minor may not be prosecuted for a third or subsequent violation of section 8.08.031(a) in municipal court, unless the juvenile court refuses the case, in which case the violator is subject to a fine of not less than \$400.00 nor more than \$500.00.

(b) A parent or legal guardian of a minor who violates section 8.08.031 of this division is, upon conviction, punishable by a fine of not less than \$100.00 nor more than \$500.00.

(c) The owner, operator, or employee of an establishment who violates section 8.08.031 of this division is, upon conviction, punishable by a fine not to exceed \$500.00

(Ordinance 2161, sec. IV, adopted 4/15/97)

Sec. 8.08.035 Review

Within 18 months after passage of this division, the city manager shall review this division and make recommendations to the city commission concerning the effectiveness or the continuing need for this division. (Ordinance 2161, sec. V, adopted 4/15/97)

ⁱ* State law references—Authority of governing body to adopt ordinance, rule or police regulation for the good government, peace or order of municipality, V.T.C.A., Local Government Code, sec. 51.001; authority of home-rule municipality to define and prohibit nuisances, V.T.C.A., Local Government Code, sec. 217.042; nuisances and general sanitation, V.T.C.A., Health and Safety Code, sec. 341.011 et seq.

ⁱⁱ* State law references—Authority of municipality regarding firearms and explosives, V.T.C.A., Local Government Code, sec. 229.001; limitation of authority to prohibit discharge of firearms or other weapons in extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 229.002; disorderly conduct, V.T.C.A., Penal Code, sec. 42.01; weapons, V.T.C.A., Penal Code, ch. 46.

ⁱⁱⁱ* State law references—Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, sec. 683.001 et seq.; junked vehicles, V.T.C.A., Transportation Code, sec. 683.071 et seq.

^{iv}* State law reference—Texas Litter Abatement Act, V.T.C.A., Health and Safety Code, ch. 365.

^v* State law references—Regulation of alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code, sec. 109.31 et seq.

^{vi}* State law references—Review of juvenile curfew order or ordinance, V.T.C.A., Local Government Code, sec. 370.002; children taken into custody for violation of juvenile curfew or order, Tex. Code Crim. Proc., art. 45.059.