

ORDINANCE NO. 24-01-04-01

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,
AMENDING VARIOUS ARTICLES OR SECTIONS OF CHAPTER 3,
CHAPTER 6, CHAPTER 8, AND CHAPTER 14 OF THE LAGO VISTA
CODE OF ORDINANCES TO UPDATE REGULATIONS RELATED TO
TEMPORARY USES AND THE STORAGE OF VEHICLES OR TRAILERS,
WHILE IMPROVING THE ORGANIZATION OF THE PROVISIONS
WITHIN THOSE SAME CHAPTERS; AND PROVIDING FOR RELATED
MATTERS.**

WHEREAS, the City of Lago Vista, Texas is a Home Rule City; and

WHEREAS, the City Council of the City of Lago Vista has previously established requirements and procedures related to temporary uses and the storage of vehicles or trailers within Chapter 3, Chapter 6, Chapter 8 and Chapter 14 of the Code of Ordinances, and

WHEREAS, both the staff and members of the Building and Standards Commission and the Planning and Zoning Commission of the City of Lago Vista had become aware of needed changes and a better organization of those requirements in order for those provisions to be more easily determined while yielding outcomes consistent with the expectations of residents; and

WHEREAS, the Building and Standards Commission has undertaken a review of existing regulations in Chapter 3 of the Code of Ordinances for consistency with provisions of Chapter 14 along an evaluation of potential organizational improvements that continues after it was initiated beginning with their meeting on March 2, 2022; and

WHEREAS, the Planning and Zoning Commission has undertaken a review of existing regulations related to temporary uses and the storage of vehicles or trailers in Chapter 6, Chapter 8, and Chapter 14 of the Code of Ordinances at public hearings beginning on September 8, 2022, and continuing intermittently through September 14, 2023; and

WHEREAS, that review of existing regulations related to temporary uses and the storage of vehicles or trailers in Chapter 6, Chapter 8, and Chapter 14 by the Planning and Zoning Commission also included an evaluation of potential organizational improvements after confirming their authority with the Lago Vista City Council to include the contents of Chapter 6 and Chapter 8 in that evaluation; and

WHEREAS, the Building and Standards Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend the requirements contained in Chapter 3 of the Lago Vista Code of Ordinances as described below; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend the requirements contained in Chapter 6, Chapter 8, and Chapter 14 of the Lago Vista Code of Ordinances as described below; and

WHEREAS, the City Council at its public hearing to consider this ordinance amendment held on November 16, 2023, reviewed the recommendation, and found the changes to be warranted subject to responses to several comments.

WHEREAS, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

SECTION 1. FINDINGS OF FACT. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

SECTION 2. AMENDMENT. The City Council of the City of Lago Vista, Texas does hereby amend Chapter 3, Chapter 6, Chapter 8, and Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit “A,” Exhibit “B,” Exhibit “C,” and Exhibit “D.”

SECTION 3. REPEALER. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 4. SEVERABILITY CLAUSE. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5. CODIFICATION AND PUBLICATION. The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City’s Code of Ordinances as authorized by Section 52.013 of the *Texas Local Government Code*.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

SECTION 7. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 4th day of January 2024.



Kevin Sullivan, Mayor

ATTEST:



Lucy Aldrich, City Secretary



On a motion by Councilor Prince, seconded by Councilor Roberts, the above and foregoing ordinance was passed and approved.

EXHIBIT “A”

CHAPTER 3
BUILDING REGULATIONS

ARTICLE 3.600 RESERVED

ARTICLE 3.700 RESERVED

EXHIBIT "B"

CHAPTER 6

PROPERTY MAINTENANCE AND NUISANCES

ARTICLE 6.100 GARBAGE AND RUBBISH

Sec 6.102 General Regulations

- (a) Dumping refuse, garbage, rubbish, junk, or any other material such as cement or any building material on or near city streets, private property, parks, parking lots, commercial or public buildings or on adjoining highways and rights-of-way as well as privately owned containers without prior permission of the owner is considered a misdemeanor and subjects the offender if convicted to a fine.
- (b) Except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance, operation of a "junk yard" or "automobile graveyard" within the city limits is prohibited and is considered an offense, punishable by a fine for each day operated.
- (c) Except as follows, it shall be an offense to repair, strip or assemble a passenger car, truck, motorcycle or any kind of motor vehicle on a residential yard, or public street within the city limits of Lago Vista, Texas. Homeowners may do ordinary maintenance jobs such as oil changes, lubricant changes (oil and lubricants must be disposed of in accordance with EPA regulations) spark plugs, points, etc. in driveways if the job takes twenty-four (24) hours or less. No type of work may be done in public streets, parking lots or vacant lots unless of emergency nature, such repairs taking no more than eight (8) hours to accomplish. Automotive repair work may be done in buildings or garages, where not seen from streets or residents.
- (d) Except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance, it shall be considered a misdemeanor for any inoperable motor vehicle to be parked or left in private yards, driveways, vacant lots or on any city street for a period exceeding seven (7) days unless otherwise authorized by special city permit.
- (e) Parking and storage of commercial vehicles and construction equipment on residential property is prohibited, except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance.
- (f) Each dwelling shall have solid waste containers which must be inaccessible to dogs and other animals, and which should be concealed insofar as possible from viewing from a public street or adjoining properties. Arrangements should be made for waste pick up so that containers are visible on waste pick up days and are immediately returned to normal storage areas within twelve (12) hours after trash pick-up.
- (g) Any "refuse" such as cited in Section 6.101, directly associated with "lot clearing" will be removed from such lots within sixty (60) days from the start of the clearing unless other disposition is authorized by this or other city ordinance. If construction is underway, clean-up will be regulated

by the city building regulations. Brush resulting from lot clearing may be chipped up and spread out on the interior of the lot in lieu of removal. Tree stumps must be cut to ground level or extracted and may either be removed from the lot or ground up and spread out over the lot. In any case where the owner/contractor/legal representative has been notified by the city to "clean up" such refuse, the responsible party has a maximum of sixty (60) days to accomplish such task.

Sec 6.103 Penalties

Any person convicted of violating any of the provisions of this article may be subject to punishment by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code.

ARTICLE 6.200 PROPERTY MAINTENANCE

Sec 6.201 Adoption of Findings of Fact

The findings and recitations set out in the preamble of Ordinance 12-01-19-01 are found to be true and correct and they are hereby adopted by the city council and made a part hereof for all purposes.

Sec 6.202 Policy

The terms and provisions hereof shall apply to stagnant water and to the accumulation and storage of any solid waste, including garbage and trash, and to the growth, accumulation, cutting and storage of grass, weeds and any other vegetative material upon property in the city, to the end that property shall be maintained in a sanitary and healthful condition for the benefit of all residents and citizens of the community.

Sec 6.203 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Brush. All uncultivated shrubs, bushes and small trees.

Earth and Construction Materials. Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.

Garbage. Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayed waste, including animal and vegetable matter, but not including sewage, hazardous, toxic or corrosive materials, earth and construction materials as herein, or any other material which may be found to be harmful to garbage collection and handling personnel or equipment.

Injure. Any and all character of physical damage, whether caused by fire or force, and which shall be done or caused willfully by any person.

Junk. All worn out, worthless and discarded material, in general, including, but not limited to, odds and ends, old iron or other metal, glass, paper, cordage, tires or other waste or discarded materials.

Lot. In addition to land within the boundaries of the property lines, all land adjacent to and extending beyond the property lines of any lot or parcel of land to the curbs or adjacent streets where curbs have been established or, where no curbs have been established, to eight (8) feet beyond the property line.

Refuse. See "garbage."

Rubbish. All refuse, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, discarded clothing and textiles of all sorts, and in general all litter. The words "any and all objectionable or unsanitary matters," not included within the meaning of the other terms as herein used, mean those which are liable to produce or tend to produce an unhealthy, unwholesome, or unsanitary condition to the general locality where the same are situated.

Solid Waste. Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

Trash. See "garbage."

Unwholesome Matter. All stagnant water, filth, carrion, impure matters, and any condition liable to produce disease.

Weeds. All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass, or breeding place for flies, mosquitoes, or a wildfire hazard.

Wildfire Fuel. Brush; piles and accumulations of dead or cut vegetation, brush, or trees; grass and weeds over 24 inches in height; and limbs of cedar trees (ashe juniper) closer to the ground than six feet.

Sec 6.204 Prohibited Conduct

It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the city limits (herein cumulatively referred to as "owner" or "occupant") to fail to keep the owner's or occupant's property free from brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature, or to fail to keep the sidewalks adjacent to the property free and clear from weeds and tall grass from the line of such property to the established curb or pavement line or shoulder line next adjacent thereto, or to fail to fill up and drain holes and depressions in which water collects, or to re-grade any lots, grounds or yards or any other property owned or controlled by the owner, occupant, lessee, or renter which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease, or to produce a wildfire hazard on vacant or unoccupied land, or to fail to keep any house, building, establishment, lot yard or ground owned or occupied or under his or her control at all times free from filth, carrion or other impure or unwholesome matter of any kind. However, nothing in this article shall prohibit composting by an owner or occupant on a property that includes a principal residence or use authorized by Chapter 14, the Lago Vista zoning ordinance.

Sec 6.205 Nuisance Declared; Duty to Abate

Whenever brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the city, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or wildfire fuels, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property, or by the city, or by others permitted by the city to abate the nuisance.

Sec 6.206 Right to Abate Dangerous Weeds and Wildfire Fuel

Whenever an immediate danger to the health, life or safety of any person exists as a result of weeds which have grown to a height; at any point on the property, of greater than 24 inches, or wildfire fuel on vacant or unoccupied property the city may abate or cause the abatement of the weeds or wildfire fuel without notice to the owner. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within ten (10) days in the manner set forth in Section 6.208.

Sec 6.207 Right to Inspect

The code enforcement officer and city manager designees are authorized to inspect any property within the city limits, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

Sec 6.208 Violations; Notice; Failure to Abate

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public, to include a high risk caused by the presence of wildfire fuels, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (c) In the event any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by Section 6.204 of this article within ten (10) days after notice to do so, the city council may direct that the city do such work or cause the same to be done, and charge the expenses in doing or having such work done or improvements made, to the owners of the property, whereupon such charge shall be a personal liability of such owner to the city.
- (d) Such notice may be in writing, served upon such owner and/or occupant in person by an officer or employee of the city, or may be by letter addressed to such owner or occupant at their post office address, or if personal service may not be had, or the owner and occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the front door of each building on the property upon which the violation relates, or by posting notice on a placard attached to a temporary stake or wire sign driven into the ground on the property to which the violation relates if no buildings exist and addressed "Sanitary Improvements" or "Wildfire Fuel Abatement" "To Whom It May Concern," and such publication shall be deemed sufficient notice.
- (e) In the event any owner is mailed a notice in accordance with subsection (d) 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.
- (f) Notices provided by mail or by posting as set forth in subsection (d) may provide for year-round abatement of the nuisance and inform the owner that should the owner commit any other violation

of the same kind that pose 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 abate the violation at the owner's expense and assess the costs against the property.

Sec 6.209 Assessment of City's Abatement Cost; Collections of Cost; Appeals

In addition to the remedy provided in Section 6.208 and cumulative thereto, the city manager or their designee, may cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided, that the owner of any such real estate may appeal to the city council from the order to abate and the assessed costs by filing a written statement with the city secretary within ten (10) days after receipt of the notice provided for above, stating that such real estate complied with the provision of Section 6.204 before the expiration of a ten-day period. The city council shall set a date within thirty (30) days from the date of the appeal; for hearing upon such appeal to determine whether the real estate complied with the provisions of Section 6.204 before the expiration of such ten-day period. The authority of the city manager or his designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the premises complied with the provisions of Section 6.204 before the expiration of such ten-day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Sec 6.210 Cost of City Abatement Constitutes Lien

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and may charge the same to the account of the owners of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (a) Expenditures plus ten (10) percent interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for water, sewer, and sanitation (herein "utility bill") for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.
- (b) Upon filing with the county clerk, of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent interest on the amount from the date of such payment so made by the city.
- (c) The city may additionally institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk, or a certified copy thereof shall be *prima facie* proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Sec 6.211 Limitation on Height of Grass or Weeds and Wildfire Fuel Limitations

- (a) **Improved Lots.** It shall be unlawful for any person who shall own or occupy any improved lot or lots in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass if such property has not been platted into lots.

(b) Unimproved or Vacant Property. It shall be unlawful for any person who shall own or occupy any unimproved or vacant property in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than 24 inches and/or cedar tree (ashe juniper) limbs to be within six feet of the ground on unimproved or vacant land. Provided, however, this section shall not apply to property used for the growing of agricultural crops or effluent irrigation.

Sec 6.212 Oak Wilt Control

(a) Purpose.

The provisions of this article are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City.

(b) Definitions.

Words used and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Diseased Trees. Live oak and red oak trees or wood from either species that are infected with oak wilt disease; and a red oak tree or wood from a red oak tree, which is dead or partially alive, but infected with such disease and to which the bark is still attached.

Forester. Any individual qualified in the area of urban forestry, botany or horticulture employed or engaged by the City including but not limited to representatives from the Texas Forestry Service, Travis County or other agency.

Public Nuisance. Red and live oak trees or wood that are determined to be infected with the fungus which causes Oak Wilt Disease (*Ceratocystis fagacearum*) ("oak wilt"); a dead red oak tree or wood from a red oak tree, that was or is, infected with Oak Wilt Disease; and diseased trees and wood as defined below. Pursuant to Chapter 342, Texas Health and Safety Code, diseased trees are deemed a public nuisance.

(c) Abatement of Nuisance by Owner of Property.

- (1) Red oak and live oak trees that are infected with Oak Wilt Disease, a dead red oak tree and wood from a red oak tree that was infected with Oak Wilt Disease, and all other trees and wood diseased with Oak Wilt Disease are hereby declared and determined to be a public nuisance.
- (2) It shall be unlawful for an owner of any property within the City to permit or maintain on such lot or parcel any diseased trees which is a public nuisance as defined herein. It shall be the duty of the owner, within fourteen (14) calendar days from notice given under subsection (f) below to cause the diseased trees to be removed and destroyed. Such removal or destruction shall be completed under the supervision and direction of the City.
- (3) Should the property owner fail to abate the public nuisance within fourteen (14) days following the receipt of notification, the City shall have the right to cause the removal and destruction of the diseased trees. The full cost of such removal and destruction shall be assessed to the owner of the property. Should the property owner fail to pay the City within thirty (30) days from the date of demand, the City may at its discretion file a lien against the property in the amount of all costs incurred by the City plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342 of the Texas Health and Safety Code.

(d) Enforcement.

The City Manager or their designee is charged with the enforcement of this article and shall perform the duties as set forth herein. The County is also authorized and requested to enforce this article within the City. The City manager or their designee shall coordinate and cooperate with the forester to the fullest reasonable extent.

(e) Inspections.

Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by city personnel or forester pursuant to this article. If such entry is requested and refused, and the City or forester has probable cause to believe there exists on the subject premises a public nuisance, the city code enforcement official or forester shall go before a municipal court judge of the City and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected with Oak Wilt.

(f) Notice to Owner.

- (1) If, upon inspection it is determined that a tree or oak wood is infected with Oak Wilt and if the City or forester determines that such tree or any wood thereof is a public nuisance as provided herein, the City shall serve or cause to be served upon the owner of record of the lot or parcel of land on which that diseased tree is located, a written notice requiring such owner to comply with the provisions of this article including but not limited to the removal and destruction of any diseased tree.
- (2) Such service of notice shall be by personal service or certified mail, return receipt requested if the owner of the lot or parcel of land on which the diseased tree is located is a resident of the City. If the owner is temporarily absent from his residence or an owner is determined to be a non-resident, written notice shall be served by certified mail addressed to the named person at the address indicated on the most recent tax appraisal records and by posting notice of the violation on the property at the point of ingress. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.

(g) Payment of Cost.

The City Council may appropriate money in the annual budget each year for Oak Wilt suppression. The Lago Vista Property Owners' Association has indicated a willingness to share equally with the City in these costs and may contribute money for this purpose. These monies may be used to match state and federal funds to pay for the cost of Oak Wilt suppression. The owner of any lot or parcel of land within the City is and shall be responsible to pay for the removal, destruction or treatment of any diseased tree when it has been determined the diseased tree or wood is a public nuisance.

(h) Tree Trimming Personnel.

Personnel hired or contracted to trim, cut, treat or remove diseased tree on improved property shall be, or shall be working under the direct supervision of a competent urban forester, botanist or horticulturist familiar with the identification and control of Oak Wilt Disease. The name, address and telephone number of all such personnel shall be filed with the City Secretary for record keeping purposes.

(i) Sterilization of Equipment Used for Trimming and Cutting.

Treating or removing of a diseased tree will be sterilized after each tree is completely cut and before proceeding to the next tree. A solution of nine parts water to one part bleach is recommended for sterilization of all trimming equipment. Equipment shall be sterilized after each cutting.

(j) Oak Wilt Prevention.

In order to help prevent the spread of Oak Wilt Disease, the trimming of limbs and branches on healthy live oak or red oak trees shall be prohibited annually between February 1 and June 30. The City Manager or their designee may approve exceptions to address public safety and welfare concerns, including damaged limbs resulting from storms or similar extraordinary circumstances.

Sec 6.213 Utility Service Requirements

- (a) It is a health and safety offense to occupy a building without public, private or community utility services as required by Chapter 3 and Chapter 13 of the Lago Vista Code of Ordinances and all other applicable regulations. A certificate of occupancy or amended certificate of occupancy is required in accordance with Chapter 3 for all buildings and accessory buildings that require a permit, specifically including those with utility services.
- (b) Any person or persons who shall allow or permit sewage to discharge into the ground or subsurface soil, which shall have the effect of causing odors, obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.
- (c) Effective March 1, 2013, all structures required to include or that elect to include utility services shall connect to the municipal water and wastewater systems in accordance with Chapter 3 and Chapter 13 of the Lago Vista Code of Ordinances.
- (d) In addition to any provisions and prohibitions found in Chapter 13, any person or persons who may allow or permit sewage to discharge onto the ground or subsurface that results in odors, obnoxious, unhealthy, or unwholesome conditions, is declared to have caused a public nuisance and shall be in violation of this article.

Sec 6.214 Penalties

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this article. Any person convicted of violating any term or provision of this article shall be guilty of a misdemeanor and fined in accordance with the general penalty provision set forth in Section 1.109 of this code for each and every such offense and for each and every day or portion thereof that such offense occurs or is maintained shall be a separate offense.

ARTICLE 6.300 NOISE

Sec 6.301 Definition

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning:

Daytime Hours. The hours from 7:00 a.m. on one day and 10:00 p.m. the same day for residential properties or areas and 6:00 a.m. on one day and 12:00 midnight on the same day for nonresidential properties or areas.

dB(A). The intensity of a sound expressed in decibels.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

Emergency Work. Any work performed for the purpose of:

- (a) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (b) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (c) Protecting persons or property from exposure to danger; or
- (d) Restoring public utilities.

Nighttime Hours. The hours between 10:01 p.m. on one day and 6:59 a.m. the following day for residential properties or areas and 12:01 a.m. and 5:59 a.m. the same day for nonresidential properties or areas.

Nonresidential Property/Areas. Any real property that is not included in the definition of residential property as defined in this Section. Without limitation, the term includes properties that have been zoned other than as residential property, and properties that are devoted to public purposes, such as public parks.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

Property Line. With respect to single-occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Residential Property/Areas. Any real property located in the R-1, R-2, or R-4 zoning districts in accordance with the provision of Chapter 14 of the Lago Vista Code of Ordinances.

Streets. Streets shall be considered to be categorized as if included in the same zoning district as the adjacent property. In the case of a street that is adjacent to both residential and nonresidential property, the street shall be considered to be in a residential area.

Sec 6.302 General Regulations

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In determining whether a noise is too loud, unnecessary, or unusual, the following factors shall be considered: time of day; proximity to residential properties/areas as defined above; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of

electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

- (b) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that either exceeds the maximum permitted sound levels specified in Section 6.306 of this code or, for purposes of Sections 6.303, 6.304, and 6.305 of this code, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.
- (c) Except in accordance with the advance written approval authorized in Chapter 3 of the Lago Vista Code of Ordinances for construction activity, it shall be unlawful for any person to operate any equipment or power tools for commercial or industrial purposes before 7:00 a.m. or after 7:00 p.m. on any day, or at any hour on Sunday, Christmas Day, New Year's Day or Thanksgiving Day. This prohibition shall not apply to emergency work which may be verbally authorized by the City Manager or Mayor.
- (d) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.
- (e) This article shall not apply to any law enforcement personnel, equipment or activity, nor shall it apply to any public utility or public works personnel, equipment or activity while in the performance of their official duties.

Sec 6.303 Noisy Vehicles Generally

- (a) The use of any motor vehicle in a state of disrepair or that includes any component modification that violates state regulations and results in any loud, unreasonable, or unusual noise, grating, grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.
- (b) No person shall operate an engine of any motor vehicle as defined by the Texas Transportation Code so as to brake or slow the vehicle through the use of a compression release brake (commonly known as "jake braking"), transmission gears, or by any other method which produces any noise in addition to the normal operating engine noise.
- (c) No person shall operate or allow an engine on any sort of motor vehicle, except emergency equipment or vehicles located at a permitted public event or parade, to idle for more than one (1) hour.

Sec 6.304 Amplified Sound

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (1) in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or (2) at any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet or more from a vehicle shall be presumed to be a violation of this Section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50

feet or more from the property line of a property or premises in which the amplification is located shall be presumed to be violation of this Section.

- (b) Amplified sound emanating from any horn, instrument, player, radio, phonograph, or other amplification device or attachment on the public street or other public or private place during nighttime hours is prohibited.
- (c) It is an affirmative defense to prosecution under this Section that the sound source is a motor vehicle and that:
 - (1) The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and
 - (2) The use is in compliance with all other provisions of this article.

Sec 6.305 Noisy Animals and Birds

- (a) The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in Section 6.306 of this article.
- (b) In any prosecution for a violation of this section, the fact that any loud animal noise which disturbed any person, and which occurs in residential areas either:
 - (1) During nighttime hours; or
 - (2) When none of the residents who reside at the place where the animal or bird is being kept are at home; shall create a rebuttable presumption that such noise was in violation of this article.
 - (3) In any prosecution for a violation of this Section, the fact that any animal or bird has been allowed or permitted to persistently and chronically violate this Section, as demonstrated by the issuance of two or more citations and/or the receipt of two or more complaints from more than one household within a two month period shall create a rebuttable presumption that such noise was in violation of this article.

Sec 6.306 Maximum Permissible Sound Levels

- (a) In addition to the violations established by the preceding sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible beyond the property on which the sound is being generated that when measured as provided in Section 6.307 of this code exceeds 80 dB(A) during daytime hours and 70 dB(A) during nighttime hours for the respective areas described above. Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be *prima facie* evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.
- (b) Regardless of the measurable dB(A) level established above, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the

sound is being generated to experience physically detectable sound, vibrations or resonance at a distance of fifty (50) feet from the source of the sound caused by the sound shall also be *prima facie* evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

(c) This section is designed to regulate noise by various alternate means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this article because it is disturbing to a reasonable person of ordinary sensibilities pursuant to Section 6.302 or because it is prohibited. If a noise violates one or more of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

Sec 6.307 Method of Sound Measurement

Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements of sound generated shall be taken from the curb line of the nearest public street to the property where the sound is generated and taken toward the source of the sound. In the event that there is not at least fifty feet (50) of distance from the building in which sound is being generated and from which sound is being measured, then measurements shall be taken from the street curb line opposite the said building of the nearest public street to the property where the sound is generated.

Sec 6.308 Permit Required For Use of Outdoor Sound Amplification Equipment

(a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the levels specified in Section 6.306, without first obtaining a permit to do so.

(b) No permit is required for any use not exceeding the said permissible levels.

(c) The permit shall be granted only for the amplification of music or human speech, or both.

(d) The permit:

- (1) May be obtained by making application to the director of the city department so designated by the City Manager.
- (2) Requires payment of a \$10.00 fee for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
- (3) Is valid for a specifically requested and approved period between the hours of 8:00 a.m. and 10:00 p.m. in residential areas or between 7:00 a.m. and 12:00 a.m. (midnight) in nonresidential areas.

- (4) Shall not be issued to the same or any other person for the same location more than twice during any 30 day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day. For special events which will take place over a two or three day time period in a City or POA park, the City Manager may approve a special permit to accommodate the entire event period in one permit.
- (5) Shall specify the maximum sound level permitted.

(e) The permit application required to be filed pursuant to this section shall contain the following information:

- (1) The date of the application and the date and hours for which the permit is requested;
- (2) The name and address of the applicant;
- (3) The name and address of the person who will have charge of the sound amplifying equipment;
- (4) The address and a description of the location where the sound equipment will be used; and
- (5) A description of the type of sound amplifying equipment to be used.

(f) The permit hereby required is not required for the purpose of regulating speech which is protected speech or to conflict with any law of any superior governmental authority.

(g) Any regulation hereof that is in conflict with any such right or authority is hereby declared to be inoperative and severable from the other regulations herein.

Sec 6.309 Defenses

The following defenses shall apply to any offense established in this article, and the same must be specifically asserted by anyone charged with a violation:

- (a) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency.
- (b) The sound was produced by an authorized emergency vehicle.
- (c) The sound was produced by emergency work or an emergency situation.
- (d) The sound was generated:
 - (1) At a lawfully scheduled stadium event;
 - (2) By a parade and/or spectators and participants on the parade route during a lawful parade;
 - (3) By spectators and participants at lawfully scheduled amphitheater, ball field or stadium event;
 - (4) By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained, and the explosives were inspected by the fire marshal;

- (5) By a pyrotechnic display that was inspected and approved by the fire marshal; or
- (6) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or cosponsored by the city and in full compliance with a permit issued by the city.

(e) The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, which activity did not produce a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received.

(f) The sound was produced by aircraft, in flight or in operation at an airport. This defense shall not apply to aircraft maintenance operations which require the operation of the aircraft engine for testing and which exceed allowable sound levels before 7:00 a.m. or after 10:00 p.m. Jet engines being tested are restricted to pulses of less than two minutes duration.

(g) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 10:00 p.m. when the sound is being produced for the maintenance or upkeep of the property on which it was operated. Golf course mowing and dry stack boat storage operations are permitted to begin at 6:00 a.m.

(h) The sound was generated as authorized under the terms of a permit issued under Section 6.308 of this article.

(i) The sound was produced by church bells or church chimes when used during daytime hours.

(j) The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletics, band and school entertainment practice or events.

Sec 6.310 Penalty

- (a) A person commits an offense if the person makes noise in violation of a provision of this article.
- (b) An offense under this article is a class C misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$2,000.00, or, if the person has previously been convicted of a violation under this article, by a fine of not less than \$200.00 nor more than \$2,000.00, as is consistent with the portion of this code governing penalties for health and safety violations.
- (c) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
- (d) A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.
- (e) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person, for injury or damage arising from any violation of this article or from other law.

ARTICLE 6.400 ABANDONED, INOPERABLE OR UNREGISTERED VEHICLES, AIRCRAFT AND WATERCRAFT

Sec. 6.401 Purpose

Except as authorized by specific provisions of Chapter 14 of the Lago Vista Code of Ordinances or as exempted below, all abandoned, inoperable or unregistered vehicles, aircraft, and watercraft, including any parts thereof that are visible from a public place or neighboring property are prohibited as:

- (a) Detriments to the safety and welfare of the general public;
- (b) Tending to reduce the value of private property;
- (c) Inviting vandalism;
- (d) Contributing to fire hazards;
- (e) Constituting an attractive nuisance detrimental to the health and safety of minors in particular;
- (f) Producing urban blight adverse to the maintenance and continuing development of the municipality; and
- (g) Creating a public nuisance.

Sec. 6.402 Definitions

The words used in this article and not defined by their context or in this section shall have their ordinarily accepted meaning. Otherwise, the following words and phrases shall have the meaning respectively ascribed to them below:

Abandoned, Inoperable or Unregistered Aircraft. any vessel that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment that can be described in any one or more of the following ways:

- (a) Has been stored for more than 90 days on City property at the Rusty Allen Airport during which time the City has been unable to determine and/or locate the owner;
- (b) Is wrecked, discarded, "junked," dismantled or partially dismantled;
- (c) Is inoperable and has remained inoperable for more than 180 days;
- (d) Is not properly licensed or registered in the manner provided by the Federal Aviation Administration (FAA) registration regulations; or
- (e) Does not have identifications numbers clearly displayed on the aircraft in compliance with Federal Aviation Administration (FAA) regulations.

Abandoned, Inoperable or Unregistered Vehicle. any vehicle, whether motorized or not including passenger cars, trucks, recreational vehicles (RVs), campers, travel trailers or motorcycles that can be described in any one or more of the following ways:

- (a) Is wrecked, discarded, "junked," dismantled or partially dismantled;

- (b) Is inoperable or immovable and has remained in that condition for more than:
 - (1) Seventy-two hours if the vehicle is on public property; or
 - (2) Thirty consecutive days if the vehicle is on private property.
- (c) Does not include both of the following lawfully attached certifications:
 - (1) An unexpired license plate; and
 - (2) A current motor vehicle registration/inspection decal.

Abandoned, Inoperable or Unregistered Watercraft. any structure or vessel designed or adapted to be navigated from place to place on the water (without or with propelling machinery), such as boats, ships, sailboats, barges, or jet skis, that can be described in any one or more of the following ways:

- (a) Is not secured to a trailer designed for that specific vessel type to be transported on public streets and includes both of the following attached certifications:
 - (1) An unexpired license plate; and
 - (2) A current motor vehicle registration/inspection decal.
- (b) Does not display current and valid Texas Parks and Wildlife Department registration decals;
- (c) Is wrecked, discarded, "junked," dismantled or partially dismantled;
- (d) Is otherwise damaged so as to be unsafe if launched and remains in that condition for more than seventy-two hours.

Antique Aircraft or Vehicle. an aircraft, passenger car or truck constructed by the original manufacturer (or licensee) on or prior to August 31, 1945.

Aircraft or Vehicle Collector. a person who:

- (a) Owns one or more antique or special interest aircraft or vehicles; and
- (b) Acquires, collects, restores, preserves, or disposes of an antique or special interest aircraft or vehicle for historic interest or public display.

Special Interest Aircraft or Vehicle. an aircraft or vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved.

Sec. 6.403 Applicability

The provisions of this article shall apply to all abandoned, inoperable, or unregistered vehicles, aircraft or watercraft, or parts thereof, except in accordance with the following specific exemptions:

- (a) When stored or completely enclosed within a building in a lawful manner and in accordance with all other applicable regulations such that the vehicle, aircraft or watercraft in question is not visible from any public or neighboring property;

- (b) When stored or parked in a lawful manner on private property in accordance with all other applicable regulations, including the provisions of Chapter 14, Zoning by an active business with all appropriate or required credentials and when all such outdoor areas are:
 - (1) Maintained in an orderly manner;
 - (2) Do not contribute to a health or safety hazard; and
 - (3) Are screened from ordinary public view by appropriate means, including fencing and/or landscaping.
- (c) Antique or special interest aircraft or motor vehicles stored or parked in a lawful manner on the private property of an aircraft or vehicle collector and when all such outdoor areas are:
 - (1) Maintained in an orderly manner;
 - (2) Do not contribute to a health or safety hazard; and
 - (3) Are screened from ordinary public view by appropriate means, including fencing and/or landscaping.
- (d) Static Display of the F-4 Phantom II Jet on loan to the City of Lago from the National Museum of the United States Air Force.

Sec. 6.404 Enforcement Procedures

- (a) Prior Notice.
 - (1) Prior to any official action being taken to abate and remove a vehicle, aircraft or watercraft constituting a public nuisance, from private or public property (including a right-of-way), not less than fifteen days' notice shall be given, except as hereinafter provided, to the following parties:
 - (A) The last known registered owner of the vehicle, aircraft or watercraft as shown on the certificate of title;
 - (B) Any lien holder of record;
 - (C) When the vehicle, aircraft or watercraft is located on private property, the owner or occupant of that property; and
 - (D) When the vehicle, aircraft or watercraft is located on public property (including a right-of-way), the owner or occupant of all adjacent private property.
 - (2) In the case of an aircraft, the additional provisions below are applicable.
 - (A) If the City is unable to determine the ownership of an aircraft that has been located on public property at the Rusty Allen Airport for more than 90 days, the City may petition a district court in Travis County to determine the ownership of the aircraft if:
 - (i) The City has provided notice in the same manner as provided by Transportation Code, Section 683.012 for notice of an abandoned motor vehicle; and

- (ii) The City has contacted the Federal Aviation Administration in an attempt to identify the owner of the aircraft.
- (B) If an owner of an aircraft fails to claim the aircraft within 60 days after the date notice is given and the court declares the aircraft as abandoned property, and grants title to the aircraft to the City, the City shall dispose of the aircraft in the same manner the city disposes of salvage or surplus property.
- (C) A determination of ownership made by the court under this Section does not affect the right of the City to recover fees against the owner of the aircraft for storage or maintenance costs or fees.

(3) The notice shall be mailed, by certified mail with a five-day return requested, and a copy of such notice shall also be affixed in a conspicuous manner to the vehicle, aircraft, or watercraft, and shall state the following:

- (A) The nature of the public nuisance;
- (B) That it must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;
- (C) That any, request for a hearing must be made before the fifteen-day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;
- (D) That the persons required to be noticed are entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and
- (E) That failure to abate the nuisance or failure to attend the hearing after notice constitutes a waiver by the owner and lien holders of all right, title and interest in the vehicle, aircraft or watercraft and shall be deemed as their consent to disposal of the property under the applicable terms of the Texas Transportation Code.

(4) If the post office address of the last known registered owner of the public nuisance is unknown, notice may be affixed in a conspicuous manner to the vehicle, aircraft, or watercraft, or, if the owner is located, hand delivered.

(5) If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.

(b) Hearing.

- (1) At the public hearing, the City Council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.
- (2) At the hearing an abandoned, damaged, or unregistered vehicle, aircraft or watercraft is presumed, unless demonstrated otherwise by the owner, to be inoperable.

- (3) Following the public hearing, the City Council shall consider all evidence and determine whether the vehicle, aircraft or watercraft, or any part thereof, constitutes a public nuisance as alleged. If the City Council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this article have been met, the City Council shall make a written order setting forth his findings and ordering that the nuisance be abated.
- (4) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the following:
 - (A) Description of the movable property (vehicle, aircraft, or watercraft);
 - (B) Vehicle or other equivalent or similar identification number;
 - (C) License plate number of any vehicle or trailer;
 - (D) Registration number or other similar certification numbers; and
 - (E) A statement that all such movable property (vehicle, aircraft, watercraft, or trailer) will be disposed of in accordance with the Texas Transportation Code.
- (5) The relocation of a vehicle, aircraft or watercraft that is a public nuisance to another location within the municipal limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the same movable property constitutes a public nuisance at the new location.

(c) Abatement and Disposal.

- (1) In the event the City Council orders abatement of the nuisance, the City or any duly authorized person may abate such public nuisance by removal and disposal of the movable property in question.
- (2) After any vehicle, aircraft or watercraft has been removed under the authority of this article, it shall not be reconstructed or made operable again.
- (3) Any vehicle, aircraft or watercraft taken into custody by the City or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of Chapter 683, subchapter E of the Texas Transportation Code.

(d) Notice to State.

No later than the fifth day after the date of removal of a vehicle, aircraft or watercraft pursuant to this article, notice must be given to the state Department of Transportation. Such notice must identify the movable property in question.

(e) Offenses and Penalty.

A person commits an offense by maintaining a public nuisance described by this article. Such an offense is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of Chapter 1 of this code. Each day an offense occurs or continues shall be considered a separate offense.

EXHIBIT "C"

CHAPTER 8

OFFENSES

ARTICLE 8.300 SEX OFFERDERS RESIDENCY

Sec 8.301 Finding and Intent

- (a) The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, chapter 62, present an extreme threat to the health, safety, and welfare of children. Sex offenders are likely to repeat an offense, have many more victims than are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves, but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.
- (b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.

Sec 8.302 Definitions

The following words, terms, and phrases; when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Any Premises Where Children Commonly Gather. This term includes, but is not limited to, a playground, playscape, school, day-care facility, crisis center or shelter, skate park, youth soccer or baseball field, video arcade facility, public or private youth center, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, Section 481.134.

Minor. A minor is a person younger than seventeen (17) years of age.

Residence. The place within the city:

- (a) Where a person registers or verifies under article 62.152, Texas Code of Criminal Procedure, as the person's residence;
- (b) Where a person abides, lodges, or resides for more than seven consecutive days;
- (c) Where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence; or

- (d) Where a person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec 8.303 Sex Offender Residency Prohibition

- (a) It is unlawful for a person who is required to register on the Texas Department of Public Safety's Sex Offender Database pursuant to V.T.C.A., Texas Code of Criminal Procedure, chapter 62 because of a violation involving a victim who was less than seventeen (17) years of age, to establish a permanent or temporary residence within one thousand (1,000) feet of any premise where children commonly gather. It shall be *prima facie* evidence that this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age.
- (b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one (1) property, measuring from the nearest wall of the building or structure occupied or the parking lot/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map generally depicting the prohibited areas is available at the city's police department.

Sec 8.304 Penalties

The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.

- (a) **Criminal Prosecution.** Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this Section shall continue shall constitute a separate offense.
- (b) **Civil Remedies.** Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law including, but not limited to, the following:
 - (1) Injunctive relief to prevent specific conduct that violates the Section or to require specific conduct that is necessary for compliance with the Section;
 - (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with the Section; and
 - (3) Other available relief.
 - (4) **Culpable Mental State Not Required.** Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

Sec 8.305 Exceptions

This Section does not apply to the following situations:

- (a) The person is not required to comply with chapter 62 of the Texas Code of Criminal Procedure.
- (b) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (c) The person is a minor.
- (d) The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the person's permanent residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.'
- (e) The person proves to the Texas Department of Public Safety that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person erroneously listed on the database.
- (f) The person has established permanent residency prior to the effective date of this article by owning the property in fee simple and said person is in compliance with all sex offender registration laws of the state.

Sec 8.306-Property Owners Prohibited from Renting Real Property to Sexual Offenders; Penalty

- (a) It is unlawful to knowingly rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this code, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within one thousand (1,000) feet, as determined pursuant to Section 8.1003(b), of any premises where children commonly gather.
- (b) Penalty-Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to a suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.
- (c) Criminal Prosecution. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this article shall continue shall constitute a separate offense.
- (d) Civil Remedies. Nothing in this Section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this Section and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this Section or to require specific conduct that is necessary for compliance with this Section;
 - (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice

committed acts in violation of the Section or failed to take action necessary for compliance with this Section; and

- (3) Other available relief.
- (e) **Affirmative Defense.** It is an affirmative defense to prosecution for an offense under this Section that on or prior to the date of the alleged offense, the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the department of public safety's sexual predator registration database, and that at the time the property owner conducted the criminal history check and reviewed the sexual predator database the sexual offender's criminal history did not include a record of a sexual offense and the offender's name did not appear in the database.

ARTICLE 8.800-RESERVED

ARTICLE 8.900-RESERVED

ARTICLE 8.1000-RESERVED

EXHIBIT “D”

CHAPTER 14

ZONING

2.10 Definitions

The words used in this chapter and not defined in this section shall have their ordinarily accepted meaning. For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them herein:

TOWNHOUSE: Means a structure on a separately platted lot, which is one of a series of three (3) or more attached dwelling units designed and used for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other, and which have their own front and rear access to the outside. No dwelling unit is located over another unit. A condominium apartment (as defined in Section 81 of the *Texas Property Code*) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below.

TRAILER OR VEHICLE-COMMERCIAL: Every trailer or vehicle designed for carrying heavy machinery, vehicles, and equipment used for commercial purposes, and is propelled, moved, or drawn on a highway or street with a gross weight or gross weight rating in excess of 10,000 pounds. “Gooseneck” trailers and all utility trailers with a length greater than 16 feet shall be defined as a commercial trailer regardless of gross weight or gross weight rating.

TRAILER-UTILITY: Every non-commercial trailer designed for carrying personal property, residential debris, or recreational equipment such as golf carts, boats, and motorcycles, and is drawn on a highway or street by a motor vehicle. “Gooseneck” trailers and all utility trailers with a length greater than 16 feet shall be defined as a commercial trailer regardless of gross weight or gross weight rating.

VEHICLE: Every device by which any person or property may be propelled, moved, or drawn upon a highway or street.

6.10 Accessory Buildings and Uses.

Construction, placement, operation, and maintenance of accessory buildings and uses shall comply with the following standards and procedures.

- (a) Accessory uses and buildings shall not be permitted on a lot in the absence of a principal use or building on the lot except as provided in Section 4.90 (commercial resorts), Section 17 (conditional uses), and Section 22 (fences) of this chapter. A separate lot adjacent to a principal use or building with common ownership must instead obtain approval for an amended plat that permits the proposed accessory use or building to be located on the same lot as the principal use or building. Once an accessory use such as an accessory building, or boat dock exists on a single lot with a

principal use or building, it cannot be subdivided until (1) a principal use or building is established on the lot containing the accessory building or use; (2) the accessory use or building has been removed from the lot; or (3) has been approved in accordance with Section 17, conditional uses, of this chapter.

(b) Residential Districts. In zoning districts permitting one- or two-family dwellings, accessory buildings and uses are permitted according to the following:

(1) Number. No more than two accessory buildings thirty (30) sq. ft. and larger shall be permitted on a lot or parcel.

(2) Screening and Landscaping. For accessory buildings to be located on property (a) adjacent to a one- or two-family use or a zoning district that allows one- or two-family use; and (b) for which a wall or walls face and are closer than 25 feet to adjoining property, the accessory building wall shall be screened as follows:

(A) One shrub, cactus, tall ornamental grasses, dwarf palm or combination thereof that is/are at least two feet tall or from a five-gallon bucket shall be planted within four feet of the wall to be screened for every three feet or fraction thereof wall to be screened; and

(B) One tree at least 1-1/2 inches in diameter at 3.5 feet above the ground shall be planted within 10 feet of the wall to be screened for every 25 feet or fraction thereof wall to be screened.

(C) Existing shrubs or other low screening plants that are at least two feet tall and trees may be used to meet the screening requirement.

(D) In lieu of landscape screening, the accessory building wall may be screened by a solid fence or hedgerow that is at least six feet tall.

(E) If the adjoining property to be screened has an existing solid fence or hedgerow that is at least six feet tall, screening of the accessory building is not required.

(F) Screening of accessory vehicular garages permitted in the front yard of a principal building is not required.

(3) Accessory buildings under 30 sq. ft.

(A) Placement and setback. These buildings shall not have a setback.

(B) Height. These buildings shall be no taller than nine (9) feet measured from the highest grade adjacent to the building and no taller than six (6) feet at the eaves.

(C) Permitting Not Required. A permit is not required before placement of this building.

(4) Accessory buildings between 30 sq. ft.-120 sq. ft.

(A) Placement and setback. These buildings shall not be placed within the front yard. They may be placed within the side and rear yard, but no closer than five (5) feet to a side or rear lot line. Setback from a corner side lot line shall be at least fifteen (15) feet.

- (B) Height. These buildings shall be no taller than nine (9) feet measured from the highest grade adjacent to the building and no taller than six (6) feet at the eaves.
- (C) Permitting Required. A permit issued from the Development Services Department is required before placement of this building.

(5) Accessory buildings larger than 120 sq. ft.

- (A) Placement and setback. These buildings shall meet the same front, side, and rear yard setback standards as the principal building or accessory building shall have a minimum front yard setback of 20', whichever results in the greatest front yard setback.
- (B) Additional Regulations on Accessory Garages. It shall be at least 250 sq. ft. in size. Screening must meet landscaping and standards prescribed in subsection (E)(ii) below.
- (C) Architecture and material.
 - (i) For accessory buildings the facade material colors must match the principal building.
 - (ii) The roof shall be the same color as on the principal building. The roof pitch should be similar in perspective to that of the principal building.
- (D) Height. The height of the accessory building shall not exceed the lesser of the height of the principal building or the maximum height specified in Table A, Table of Development Standards for any given zoning district, except in accordance with the provisions of Section 11.60 below.
- (E) Additional Restrictions.
 - (i) The floor area of the accessory building cannot exceed fifty percent (50%) of the floor area of a principal building. For the purpose of determining compliance with this requirement, floor area shall consist of any enclosed or attached covered area. When a covered area is attached to both a principal building and an accessory building, that area shall be included with the floor area of the accessory building.
 - (ii) The accessory building must be screened with landscaping from any street side with xeriscape evergreen shrubs a minimum of two (2) feet in height at time of plantings and maximum of three (3) feet on center. This excludes portions of the facade with pedestrian doors, vehicular access doors, and areas of the facade with two (2) feet or less between any doors and/or end of the facade. Plantings shall be located near the building walls to the satisfaction of the City. Plantings shall be maintained and replaced as necessary to maintain this standard.
- (F) Permitting Required. A permit issued from the Development Services Department is required before placement of this building.

(6) Carports. Carports are allowed in the manufactured home and industrialized housing zoning district but only by conditional use permit in other zoning districts. In manufactured home and industrialized housing districts, they may be attached or detached and there are no architecture or material standards.

6.65 Storage and Parking of All Vehicles, Including Boats, Trailers, and Recreational Vehicles.

- (a) Any storage of unregistered, inoperable, or vehicles that have the appearance of being inoperable, on a lot or parcel not specifically authorized by this chapter is prohibited unless contained within a building that screens them from any direction. This provision applies to all vehicles, including recreational vehicles, boats, and trailers. Covering a vehicle outside of such a building with any material does not screen it sufficiently for compliance with this requirement.
- (b) When not fully enclosed within a structure or specifically authorized by this chapter, all non-commercial utility trailers (see Section 2.10 above), recreational vehicles or trailers designed for a boat, jet-ski, or motorcycle instead of materials or debris shall be located on an improved surface that addresses erosion control concerns and can support the vehicle or trailer.
 - (1) Such improved surface shall be located inside the property line of property with a principal (not accessory) use building and shall at all times be free of weeds, grass, refuse, debris, or standing water.
 - (2) Continuously improved access to the improved parking or storage surface from a public or private street is not required.
 - (3) The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.
- (c) Commercial trailers, equipment, or vehicles (which does not include recreational vehicles, non-commercial utility trailers or other recreational trailers specified in the subsection directly above) are permitted to be parked or stored on residential property only within a fully enclosed garage or accessory building, or behind a fence that is no less than ninety-five (95) percent solid and no less than six (6) feet in height in a location permitted by Section 22.30 of this chapter or an approved variance.
 - (1) When such vehicles, equipment, or trailers are parked or stored outside of a fully enclosed garage or accessory building, an improved surface that addresses erosion control concerns and can support the vehicle or trailer is required.
 - (2) When partially concealed by a fence in accordance with the requirements above rather than a fully enclosed garage or accessory building, the improved parking or storage surface shall be located on the same lot as the primary residence.
 - (3) The access route to the parking or storage locations for commercial trailers is not required to be paved.
 - (4) The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.
 - (5) These requirements do not apply to the temporary storage or parking of vehicles or trailers used to complete work authorized by active permits at this same location.
- (d) Commercial vehicles and equipment other than trailers (see Section 2.10 above) that are parked or stored on a residential property shall be located on an improved surface that is accessed by a driveway that is continuously connected to a public or private street and meets all applicable local requirements, including Chapter 11 of the Lago Vista Code of Ordinances.

- (1) Both the parking surface and the access driveway shall be constructed of a surface meeting all applicable local requirements.
- (2) Both the parking surface and the access driveway shall be located on the same lot as the primary residence.
- (3) The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.

6.100 Temporary Uses and Buildings.

- (a) **Camping or Temporary Living Accommodations.** Except as explicitly authorized elsewhere in this chapter or within this section below, no property shall be used for camping or temporary living accommodations at any time.
 - (1) The guests of the owner and members of a single-family residential household with a valid certificate of occupancy may utilize the rear yard of the property for camping for a maximum of fourteen (14) consecutive days.
 - (2) With advance written notice to the Chief of Police, the guests of the owner and members of a single-family residential household with a valid certificate of occupancy may utilize a recreational vehicle or camper parked on the property (not in a public right-of-way) as temporary living accommodations for a maximum of fourteen (14) days within any ninety (90) consecutive day period.
 - (3) With the advance written approval of the city manager or their designee, a recreational vehicle or camper may be utilized by the members of a single-family residential household (but not a contractor) as temporary living accommodations when that same single-family residence has been damaged or destroyed by nature or disaster and a permit has been issued for the required repairs or reconstruction.
- (b) **Temporary Construction Uses and Buildings.**
 - (1) **Multifamily Residential and Commercial Permits.** Temporary buildings or structures are permitted to serve as storage or office space when associated with a permitted multifamily or commercial construction project. Temporary buildings or structures shall comply with the restrictions related to the "sight triangle" specified in Section 5.80 of this chapter unless a driveway in question is precluded from use during construction by temporary fencing or other similar acceptable barricades. All temporary buildings or structures shall be removed upon the completion or abandonment of construction work covered by the permit.
 - (2) **One and Two-Family Residential Permits.** A limited number of temporary buildings or structures to serve as storage or office space associated with a one or two-family residential construction project may be allowed for a specific duration when approved in advance as part of the building permit review. A site plan showing the size and location of each temporary building or structure is required along with a description of the construction progress that will mandate the removal of each temporary building or structure. Temporary screening may be required, or minimum setbacks imposed for structures otherwise visible from an adjacent golf course.

(c) **Model Homes.** Any permitted single-family residence within a subdivision initially platted in 2007 or later may be used as a model home, subject to the provisions of this section and if that use is specified on a current and valid certificate of occupancy issued by the Lago Vista Development Services Department. For the purposes of this article, the term "model home" shall mean any structure designed for use as a single-family residential dwelling that is used or planned for use as a temporary sales office by the builder or entity marketing similarly constructed structures, or that is planned for use or used to demonstrate and market other similar single-family residences.

- (1) Each builder or ownership entity is limited to a maximum of five model homes within any platted subdivision, including all related sections or phases. No model home is permitted after the last lot or residence within a platted subdivision has been sold to an individual or entity that is not actively offering to build residences within that same platted subdivision, including all related sections or phases.
- (2) An amended certificate of occupancy is required whenever a model home is converted to permanent use as a single-family residence. Failure to apply for an amended certificate of occupancy prior to a conversion or when a model home is no longer permitted by the provisions of this section shall be considered a zoning ordinance violation, subject to the applicable penalties.
- (3) Model homes shall not be open and accessible to the public for the use permitted by this section before 9 a.m. or after 9 p.m.
- (4) Any sign allowed in a C-1 zoning district, including a monument sign, may be permitted in association with a model home as a temporary improvement for as long as the residence is permitted to be used in that manner by this section. However, all such signs shall be removed whenever the use is terminated and as a condition of the required amended certificate of occupancy.
- (5) With the exception of the ability to permit a sign not otherwise allowed in association with a single-family residence, all other development standards, building regulations (including outdoor lighting restrictions), and zoning requirements applicable to the property shall be strictly enforced, with no variance application available until after the use of the property as a model home has been terminated.

CHAPTER 3

BUILDING REGULATIONS

ARTICLE 3.600 OAK WILT CONTROL RESERVED

See 3.601 Purpose

~~The provisions of this article are deemed to be necessary to promote the health, safety, and general welfare of the residents of the city.~~

See 3.602 Definitions

~~Words used and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:~~

Diseased Trees. ~~Live oak and red oak trees or wood therefrom that are infected with oak wilt disease; and a red oak tree or wood from a red oak tree, which is dead or partially alive, but infected with such disease and to which the bark is still attached.~~

Forester. ~~Any individual qualified in the area of urban forestry, botany or horticulture employed or engaged by the city including but not limited to representatives from the Texas Forestry Service, Travis County or other agency.~~

Public Nuisance. ~~Red and live oak trees or wood that are determined to be infected with the fungus which causes oak wilt disease (*Ceratocystis Fagacearum*) ("oak wilt"); a dead red oak tree or wood from a red oak tree, that was or is, infected with oak wilt disease; and diseased trees and wood as defined below. Pursuant to Chapter 342, Tex. Health & Safety Code, diseased trees are deemed a public nuisance.~~

See 3.603 Abatement Of Nuisance By Owner Of Property

- ~~(a) Red oak and live oak trees that are infected with oak wilt, a dead red oak tree and wood from a red oak tree that was infected with oak wilt, and all other trees and wood diseased with oak wilt are hereby declared and determined to be a public nuisance.~~
- ~~(b) It shall be unlawful for an owner of any lot or parcel of land within the city to permit or maintain on such lot or parcel any diseased trees which is a public nuisance as defined herein. It shall be the duty of the owner, within fourteen (14) calendar days from notice given under Section 3.606 under this article to cause to be removed and destroyed the diseased trees. Such removal or destruction shall be completed under the supervision and direction of the city.~~
- ~~(c) Should the property owner fail to abate the public nuisance within fourteen (14) days following the receipt of notification, the city shall have the right to cause the removal and destruction of the diseased trees. The full cost of such removal and destruction shall be assessed to the owner of the property. Should the property owner fail to pay the city within thirty (30) days from the date of invoicing the city may, at its discretion, file a lien against the property in the amount of all costs~~

~~incurred by the city plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342, Tex. Health & Safety Code.~~

See 3.604 Enforcement

~~The city manager or his/her designee is charged with the enforcement of this article and shall perform the duties as set forth herein. The county is also authorized and requested to enforce this article within the city. The city manager or his/her designee shall coordinate and cooperate with the forester to the fullest reasonable extent.~~

See 3.605 Inspections

~~Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by city personnel or forester pursuant to this article. If such entry is requested and refused, and the city or forester has probable cause to believe there exists on the subject premises a public nuisance, the city inspector or forester shall go before a municipal court judge of the city and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected with Oak Wilt.~~

See 3.606 Notice To Owner

- (a) ~~If, upon inspection it is determined that a tree or oak wood is infected with Oak Wilt and if the city or forester determines that such tree or any wood thereof is a public nuisance as provided herein, the city shall serve or cause to be served upon the owner of record of the lot or parcel of land on which that diseased tree is located, a written notice requiring such owner to comply with the provisions of this article including but not limited to the removal and destruction of any diseased tree.~~
- (b) ~~Such service of notice shall be by personal service or certified mail, return receipt requested if the owner of the lot or parcel of land on which the diseased tree is located is a resident of the city. If the owner is temporarily absent from his residence or an owner is determined to be a non resident, written notice shall be served by certified mail addressed to the named person at the address indicated on the most recent tax appraisal records and by posting notice of the violation on the property at the point of ingress. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.~~

See 3.607 Payment Of Cost

~~The city council may appropriate money in the annual budget each year for Oak Wilt suppression. The Lago Vista Property Owners' Association has indicated a willingness to share equally with the city in these costs and may contribute money for this purpose. These monies may be used to match state and federal funds to pay for the cost of Oak Wilt suppression. The owner of any lot or parcel of land within the city is and shall be responsible to pay for the removal, destruction or treatment of any diseased tree when it has been determined the diseased tree or wood is a public nuisance.~~

See 3.608 Tree Trimming Personnel

~~Personnel hired or contracted to trim, cut, treat or remove diseased tree on improved property shall be, or shall be working under the direct supervision of a competent urban forester, botanist or horticulturist familiar with the identification and control of Oak Wilt Disease. The name, address and telephone number of all such personnel shall be filed with the city secretary for record keeping purposes.~~

See 3.609 Sterilization Of Equipment

Equipment used for trimming, cutting, Treating or removing of diseased tree will be sterilized after each tree is completely cut and before proceeding to the next tree. A solution of nine parts water to one part bleach is recommended for sterilization of all trimming equipment. Equipment shall be sterilized after each cutting.

Sec 3.610 Penalties

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this article. Any person violating any provision hereof shall be deemed guilty of a misdemeanor, and each person shall be deemed guilty of a separate offense for each and every such violation and for each and every day or portion thereof during which any such violation continues or occurs. Upon the conviction of such violation, such offense shall be punishable by fine in accordance with the general penalty provision found in Section 1.109 of this code.

ARTICLE 3.700 MODEL HOMES RESERVED

Sec 3.701 Model Home Permit Required

In addition to building permits and other permits as are required by city ordinance, a permit shall be required for each structure or building located on any property zoned for residential use and used as a model home. For the purposes of this article, the term "model home" shall mean any structure designed for use as a single family residential dwelling that is used, or planned for use as an office by the builder, or entity marketing similarly constructed structures, or that is planned for use or used as a demonstration home for the purpose of marketing other buildings and structures. No person, firm or entity shall use, or suffer or permit the use of, any structure or dwelling unit as a model home unless a model home permit has first been obtained and issued for such model home and such model home shall comply with the provisions of this article.

See 3.702 Requirements For Permit

The following conditions and requirements shall be applicable to all model homes:

- (a) A minimum of six (6) off street parking spaces must be provided in addition to the required any driveway for the structure;
- (b) Outdoor lighting shall comply with Article 3.800 of Chapter 3;
- (c) Model homes shall not be open to the public prior to 9:00 a.m. nor after 9:00 p.m.
- (d) Signs shall comply with all ordinances and not more than one open house sign, or similar sign, shall be allowed; and
- (e) No structure or dwelling unit shall be used as a model home for more than twelve (12) months.
- (f) No existing or proposed building or structure for which application is made for a model home permit shall be within, or proposed to be within, one thousand feet (1,000) of any single family residence, at the time such application is made.

See 3.703 Variances

~~No variances shall be made from the requirements set forth in Section 3.702 except upon written application made to and approval by the city council.~~

See 3.704 Application And Issuance

- (a) ~~Application for a model home permit shall be made to the building official on a form established for such purpose. A permit fee shall accompany each such application and such fee shall not be refundable. The building official shall issue a model home permit on a form established for such purpose, to each applicant making an application that complies in every respect with Section 3.702. If an application does not comply with Section 3.702, the building official shall reject such application and shall not thereafter consider the application; provided that upon the payment of an additional application fee a revised application in compliance with Section 3.702 may be resubmitted.~~
- (b) ~~The model home permit shall have the following statement printed thereon: "The City of Lago Vista can neither enforce nor waive any deed restriction, restrictive covenant, or private contract rights. This permit is subject to any such restrictions, covenants or rights that may be applicable to the property for which this permit is issued. The applicant/permittee should check and confirm the deed restrictions, if any, for the lot, tract or parcel of land for which this permit is issued, and seek legal counsel with respect thereto as appropriate."~~

See 3.705 Permit Fee

~~A fee as set forth in the fee schedule located in Appendix A of this code is hereby established and imposed for each application for a model home permit. Such fee shall be charged for each separate application and a separate fee shall be charged for the resubmittal of any application that has been previously rejected by the building official. The fee shall entitle the applicant for each approved application to occupy and use the permitted structure in compliance with this article and the model home permit as a model home for a period of twelve (12) calendar months; provided that any model home permit may be cancelled if the model home shall not be maintained in compliance with the permit therefore.~~

See 3.706 Collection And Deposit

~~The building official shall cause the application fee to be collected and paid to the city treasurer prior to reviewing any application for a model home permit. The city treasurer shall deposit each such fee into the general fund.~~

See 3.707 Enforcement

~~The building official shall be responsible for enforcing this article and shall inspect each property for which an application has been approved for the purpose of verifying that the applicant has complied with the permit requirements and this article. No structure for which a model home permit has been issued shall be used or occupied as a model home until such structure and property complies with the permit requirements and this article.~~

See 3.708 Penalties

~~Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day of violation and each incident of violation of this article shall constitute a separate offense.~~

CHAPTER 6

HEALTH AND SANITATION REGULATIONS PROPERTY MAINTENANCE AND NUISANCES

ARTICLE 6.100 GARBAGE AND RUBBISH

Sec 6.102 General Regulations

- (a) Dumping refuse, garbage, rubbish, junk, or any other material such as cement or any building material on or near city streets, private property, parks, parking lots, commercial or public buildings or on adjoining highways and rights-of-way as well as privately owned containers without prior permission of the owner is considered a misdemeanor and subjects the offender if convicted to a fine.
- (b) ~~Operations Except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance, operation of a “junk yard” or “automobile grave yard graveyard” within the city limits is prohibited and is considered an offense, punishable by a fine for each day operated.~~
- (c) ~~If Except as follows, it shall be an offense to repair, strip or assemble a passenger car, truck, motorcycle or any kind of motor vehicle on a residential yard, or public street within the city limits of Lago Vista, Texas. Homeowners may do ordinary maintenance jobs such as oil changes, lubricant changes (Note:-oil and lubricants must be disposed of in accordance with Federal EPA Regulations regulations) spark plugs, points, etc. in driveways if the job takes twenty-four (24) hours or less. No type of work may be done in public streets, parking lots or vacant lots unless of emergency nature, such repairs taking no more than eight (8) hours to accomplish. Automotive repair work may be done in buildings or garages, where not seen from streets or residents.~~
- (d) ~~If Except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance, it shall be considered a misdemeanor for any inoperable motor vehicle to be parked or left in private yards, driveways, vacant lots or on any city street for a period exceeding seven (7) days unless otherwise authorized by special city permit.~~
- (e) ~~Dump trucks, graders, front end loaders, backhoes, trenchers, and like vehicle parking is prohibited except for moving vans or construction vehicles during construction. Vans, pick ups and automobiles used for commercial purposes are exempt from this restriction. Parking and storage of commercial vehicles and construction equipment on residential property is prohibited, except as specifically authorized by Chapter 14, the Lago Vista zoning ordinance.~~
- (f) Each dwelling shall have solid waste containers which must be inaccessible to dogs and other animals, and which should be concealed insofar as possible from viewing from a public street or adjoining properties. Arrangements should be made for waste pick up so that containers are visible on waste pick up days and are immediately returned to normal storage areas within twelve (12) hours after trash pick-up.

(g) Any "refuse" such as cited in Section 6.101, directly associated with "lot clearing" will be removed from such lots within sixty (60) days from the start of the clearing unless other disposition is authorized by this or other city ordinance. If construction is underway, clean-up will be regulated by the city building regulations. Brush resulting from lot clearing may be chipped up and spread out on the interior of the lot in lieu of removal. Tree stumps must be cut to ground level or extracted and may either be removed from the lot or ground up and spread out over the lot. In any case where the owner/contractor/legal representative has been notified by the city to "clean up" such refuse, the responsible party has a maximum of sixty (60) days to accomplish such task.

Sec 6.103 Penalties

Any person convicted of violating any of the provisions of this article may be subject to punishment by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code.

ARTICLE 6.200 PROPERTY MAINTENANCE

Sec 6.201 Adoption of Findings of Fact

The findings and recitations set out in the preamble of Ordinance 12-01-19-01 are found to be true and correct and they are hereby adopted by the city council and made a part hereof for all purposes.

Sec 6.202 Policy

The terms and provisions hereof shall apply to stagnant water and to the accumulation and storage of any solid waste, including garbage and trash, and to the growth, accumulation, cutting and storage of grass, weeds and any other vegetative material upon property in the city, to the end that property shall be maintained in a sanitary and healthful condition for the benefit of all residents and citizens of the community.

Sec 6.203 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Brush. All uncultivated shrubs, bushes and small trees.

Earth and Construction Materials. Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.

Garbage. Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all ~~deecayable wastes~~ ~~decayed waste~~, including animal and vegetable matter, but not including sewage, hazardous, toxic or corrosive materials, earth and construction materials as herein, or any other material which may be found to be harmful to garbage collection and handling personnel or equipment.

Injure. Any and all character of physical damage, whether caused by fire or force, and which shall be done or caused willfully by any person.

Junk. All worn out, worthless and discarded material, in general, including, but not limited to, odds and ends, old iron or other metal, glass, paper, cordage, tires or other waste or discarded materials.

Lot. In addition to land within the boundaries of the property lines, all land adjacent to and extending beyond the property lines of any lot or parcel of land to the curblines or adjacent streets where curblines have been established or, where no curblines have been established, to eight (8) feet beyond the property lines.

Refuse. See "garbage."

Rubbish. All refuse, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, discarded clothing and textiles of all sorts, and in general all litter. The words "any and all objectionable or unsanitary matters," not included within the meaning of the other terms as herein used, mean those which are liable to produce or tend to produce an unhealthy, unwholesome, or unsanitary condition to the general locality where the same are situated.

Solid Waste. Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

Trash. See "garbage."

Unwholesome Matter. All stagnant water, filth, carrion, impure matters, and any condition liable to produce disease.

Weeds. All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass, or breeding place for flies, mosquitoes, or a wildfire hazard.

Wildfire Fuel. Brush; piles and accumulations of dead or cut vegetation, brush, or trees; grass and weeds over 24 inches in height; and limbs of cedar trees (ashe juniper) closer to the ground than six feet.

Sec 6.204 Prohibited Conduct

It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the city limits (herein cumulatively referred to as "owner" or "occupant") to fail to keep the owner's or occupant's property free from brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature, or to fail to keep the sidewalks adjacent to the property free and clear from weeds and tall grass from the line of such property to the established curbline or pavement line or shoulder line next adjacent thereto, or to fail to fill up and drain holes and depressions in which water collects, or to re-grade any lots, grounds or yards or any other property owned or controlled by the owner, occupant, lessee, or renter which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease, or to produce a wildfire hazard on vacant or unoccupied land, or to fail to keep any house, building, establishment, lot yard or ground owned or occupied or under his or her control at all times free from filth, carrion or other impure or unwholesome matter of any kind. However, nothing in this article shall prohibit composting by an owner or occupant on a property that includes a principal residence or use authorized by Chapter 14, the Lago Vista zoning ordinance.

Sec 6.205 Nuisance Declared; Duty to Abate

Whenever brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the city, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water

therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or wildfire fuels, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property, or by the city, or by others permitted by the city to abate the nuisance.

Sec 6.206 Right to Abate Dangerous Weeds and Wildfire Fuel

Whenever an immediate danger to the health, life or safety of any person exists as a result of weeds which have grown to a height; at any point on the property, of greater than 24 inches, or wildfire fuel on vacant or unoccupied property the city may abate or cause the abatement of the weeds or wildfire fuel without notice to the owner. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within ten (10) days in the manner set forth in Section 6.208.

Sec 6.207 Right to Inspect

The code enforcement officer and city manager designees are authorized to inspect any property within the city limits, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

Sec 6.208 Violations; Notice; Failure to Abate

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public, to include a high risk caused by the presence of wildfire fuels, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (c) In the event any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by Section 6.204 of this article within ten (10) days after notice to do so, the city council may direct that the city do such work or cause the same to be done, ~~and pay therefor~~, and charge the expenses in doing or having such work done or improvements made, to the owners of the property, whereupon such charge shall be a personal liability of such owner to the city.
- (d) Such notice may be in writing, served upon such owner and/or occupant in person by an officer or employee of the city, or may be by letter addressed to such owner or occupant at their post office address, or if personal service may not be had, or the owner and occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the front door of each building on the property upon which the violation relates, or by posting notice on a placard attached to a temporary stake or

wire sign driven into the ground on the property to which the violation relates if no buildings exist and addressed "Sanitary Improvements" or "Wildfire Fuel Abatement" "To Whom It May Concern," and such publication shall be deemed sufficient notice.

- (e) In the event any owner is mailed a notice in accordance with subsection (d) 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.
- (f) Notices provided by mail or by posting as set forth in subsection (d) may provide for year-round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose 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 abate the violation at the owner's expense and assess the costs against the property.

Sec 6.209 Assessment of City's Abatement Cost; Collections of Cost; Appeals

In addition to the remedy provided in Section 6.208 and cumulative thereto, the city manager or his their designee, may cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided, that the owner of any such real estate may appeal to the city council from the order to abate and the assessed costs by filing a written statement with the city secretary within ten (10) days after receipt of the notice provided for above, stating that such real estate complied with the provision of Section 6.204 before the expiration of a ten-day period. The city council shall set a date within thirty (30) days from the date of the appeal, for hearing upon such appeal to determine whether the real estate complied with the provisions of Section 6.204 before the expiration of such ten-day period. The authority of the city manager or his designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the premises complied with the provisions of Section 6.204 before the expiration of such ten-day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Sec 6.210 Cost of City Abatement Constitutes Lien

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and may charge the same to the account of the owners of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (a) Expenditures plus ten (10) percent interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for water, sewer, and sanitation (herein "utility bill") for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.
- (b) Upon filing with the county clerk, of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent interest on the amount from the date of such payment so made by the city.
- (c) The city may additionally institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk, or a certified copy thereof shall be *prima facie* proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Sec 6.211 Limitation on Height of Grass or Weeds and Wildfire Fuel Limitations

- (a) Improved Lots. It shall be unlawful for any person who shall own or occupy any improved lot or lots in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass if such property has not been platted into lots.
- (b) Unimproved or Vacant Property. It shall be unlawful for any person who shall own or occupy any unimproved or vacant property in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than 24 inches and/or cedar tree (ashe juniper) limbs to be within six feet of the ground on unimproved or vacant land. Provided, however, this section shall not apply to property used for the growing of agricultural crops or effluent irrigation.

Sec 6.212 Discharge Of Sewage Oak Wilt Control

~~Any person or persons who shall allow or permit sewage to discharge into the ground or subsurface soil, which shall have the effect of causing odors, obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.~~

(a) Purpose.

The provisions of this article are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City.

(b) Definitions.

Words used and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Diseased Trees. Live oak and red oak trees or wood from either species that are infected with oak wilt disease; and a red oak tree or wood from a red oak tree, which is dead or partially alive; but infected with such disease and to which the bark is still attached.

Forester. Any individual qualified in the area of urban forestry, botany or horticulture employed or engaged by the City including but not limited to representatives from the Texas Forestry Service, Travis County or other agency.

Public Nuisance. Red and live oak trees or wood that are determined to be infected with the fungus which causes Oak Wilt Disease (*Ceratocystis fagacearum*) ("oak wilt"); a dead red oak tree or wood from a red oak tree, that was or is, infected with Oak Wilt Disease; and diseased trees and wood as defined below. Pursuant to Chapter 342, Texas Health and Safety Code, diseased trees are deemed a public nuisance.

(c) Abatement of Nuisance by Owner of Property.

- (1) Red oak and live oak trees that are infected with Oak Wilt Disease, a dead red oak tree and wood from a red oak tree that was infected with Oak Wilt Disease, and all other trees and wood diseased with Oak Wilt Disease are hereby declared and determined to be a public nuisance.

- (2) It shall be unlawful for an owner of any property within the City to permit or maintain on such lot or parcel any diseased trees which is a public nuisance as defined herein. It shall be the duty of the owner, within fourteen (14) calendar days from notice given under subsection (f) below to cause the diseased trees to be removed and destroyed. Such removal or destruction shall be completed under the supervision and direction of the City.
- (3) Should the property owner fail to abate the public nuisance within fourteen (14) days following the receipt of notification, the City shall have the right to cause the removal and destruction of the diseased trees. The full cost of such removal and destruction shall be assessed to the owner of the property. Should the property owner fail to pay the City within thirty (30) days from the date of demand, the City may at its discretion file a lien against the property in the amount of all costs incurred by the City plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342 of the Texas Health and Safety Code.

(d) Enforcement.

The City Manager or their designee is charged with the enforcement of this article and shall perform the duties as set forth herein. The County is also authorized and requested to enforce this article within the City. The City manager or their designee shall coordinate and cooperate with the forester to the fullest reasonable extent.

(e) Inspections.

Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by city personnel or forester pursuant to this article. If such entry is requested and refused, and the City or forester has probable cause to believe there exists on the subject premises a public nuisance, the city code enforcement official or forester shall go before a municipal court judge of the City and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected with Oak Wilt.

(f) Notice to Owner.

- (1) If, upon inspection it is determined that a tree or oak wood is infected with Oak Wilt and if the City or forester determines that such tree or any wood thereof is a public nuisance as provided herein, the City shall serve or cause to be served upon the owner of record of the lot or parcel of land on which that diseased tree is located, a written notice requiring such owner to comply with the provisions of this article including but not limited to the removal and destruction of any diseased tree.
- (2) Such service of notice shall be by personal service or certified mail, return receipt requested if the owner of the lot or parcel of land on which the diseased tree is located is a resident of the City. If the owner is temporarily absent from his residence or an owner is determined to be a non-resident, written notice shall be served by certified mail addressed to the named person at the address indicated on the most recent tax appraisal records and by posting notice of the violation on the property at the point of ingress. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.

(g) Payment of Cost.

The City Council may appropriate money in the annual budget each year for Oak Wilt suppression. The Lago Vista Property Owners' Association has indicated a willingness to share equally with the City in

these costs and may contribute money for this purpose. These monies may be used to match state and federal funds to pay for the cost of Oak Wilt suppression. The owner of any lot or parcel of land within the City is and shall be responsible to pay for the removal, destruction or treatment of any diseased tree when it has been determined the diseased tree or wood is a public nuisance.

(h) Tree Trimming Personnel.

Personnel hired or contracted to trim, cut, treat or remove diseased tree on improved property shall be, or shall be working under the direct supervision of a competent urban forester, botanist or horticulturist familiar with the identification and control of Oak Wilt Disease. The name, address and telephone number of all such personnel shall be filed with the City Secretary for record keeping purposes.

(i) Sterilization of Equipment Used for Trimming and Cutting.

Treating or removing of a diseased tree will be sterilized after each tree is completely cut and before proceeding to the next tree. A solution of nine parts water to one part bleach is recommended for sterilization of all trimming equipment. Equipment shall be sterilized after each cutting.

(j) Oak Wilt Prevention.

In order to help prevent the spread of Oak Wilt Disease, the trimming of limbs and branches on healthy live oak or red oak trees shall be prohibited annually between February 1 and June 30. The City Manager or their designee may approve exceptions to address public safety and welfare concerns, including damaged limbs resulting from storms or similar extraordinary circumstances.

Sec 6.213 Connection To Water And Sewer Required Utility Service Requirements

- (a) It is a health and safety offense to occupy a building without ~~water and sewer service whether provided by the city or through an individual or communal well and an individual septic system or a communal septic system~~ public, private or community utility services as required by Chapter 3 and Chapter 13 of the Lago Vista Code of Ordinances and all other applicable regulations. A certificate of occupancy or amended certificate of occupancy is required in accordance with Chapter 3 for all buildings and accessory buildings that require a permit, specifically including those with utility services.
- (b) ~~A certificate of occupancy is required before any building built with water and sanitary sewer connections can be occupied or used for its intended purpose.~~ Any person or persons who shall allow or permit sewage to discharge into the ground or subsurface soil, which shall have the effect of causing odors, obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.
- (c) Effective March 1, 2013, all structures ~~utilized for human habitation or occupancy shall connect to the city water supply if such supply is within 300 feet as measured within street ROW or a utility easement from the water supply to the nearest property line on which the structure is to be located~~ required to include or that elect to include utility services shall connect to the municipal water and wastewater systems in accordance with Chapter 3 and Chapter 13 of the Lago Vista Code of Ordinances.
- (d) In addition to any provisions and prohibitions found in Chapter 13, any person or persons who may allow or permit sewage to discharge onto the ground or subsurface that results in odors, obnoxious,

unhealthy, or unwholesome conditions, is declared to have caused a public nuisance and shall be in violation of this article.

Sec 6.214 Penalties

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this article. Any person convicted of violating any term or provision of this article shall be guilty of a misdemeanor and fined in accordance with the general penalty provision set forth in Section 1.109 of this code for each and every such offense and for each and every day or portion thereof that such offense occurs or is maintained shall be a separate offense.

ARTICLE 6.300 NOISE

Sec 6.301 Definition

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning:

Daytime Hours. The hours from 7:00 a.m. on one day and 10:00 p.m. the same day for residential properties or areas and 6:00 a.m. on one day and 12:00 midnight on the same day for nonresidential properties or areas.

dB(A). The intensity of a sound expressed in decibels.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

Emergency Work. Any work performed for the purpose of:

- (a) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (b) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (c) Protecting persons or property from exposure to danger; or
- (d) Restoring public utilities.

Nighttime Hours. The hours between 10:01 p.m. on one day and 6:59 a.m. the following day for residential properties or areas and 12:01 a.m. and 5:59 a.m. the same day for nonresidential properties or areas.

Nonresidential Property/Areas. Any real property that is not included in the definition of residential property as defined in this Section. Without limitation, the term includes properties that have been zoned other than as residential property, and properties that are devoted to public purposes, such as public parks.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

Property Line. With respect to single-occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Residential Property/Areas. Any real property located in the R-1, R-2, or R-4 zoning districts in accordance with the provision of Chapter 14 of the Lago Vista Code of Ordinances.

Streets. Streets shall be considered to be categorized as if included in the same zoning district as the adjacent property. In the case of a street that is adjacent to both residential and nonresidential property, the street shall be considered to be in a residential area.

Sec 6.302 General Regulations

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In determining whether a noise is too loud, unnecessary, or unusual, the following factors shall be considered: time of day; proximity to residential properties/areas as defined above; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (b) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that either exceeds the maximum permitted sound levels specified in Section 6.306 of this code or, for purposes of Sections 6.303, 6.304, and 6.305 of this code, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.
- (c) Except in accordance with the advance written approval authorized in Chapter 3 of the Lago Vista Code of Ordinances for construction activity, it shall be unlawful for any person to operate any equipment or power tools for commercial or industrial purposes before 7:00 a.m. or after 7:00 p.m. on any day, or at any hour on Sunday, Christmas Day, New Year's Day or Thanksgiving Day. This prohibition shall not apply to emergency work which may be verbally authorized by the City Manager or Mayor.
- (d) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.
- (e) This article shall not apply to any law enforcement personnel, equipment or activity, nor shall it apply to any public utility or public works personnel, equipment or activity while in the performance of their official duties.

Sec 6.303 Noisy Vehicles Generally

- (a) The use of any motor vehicle in a state of disrepair or that includes any component modification that violates state regulations and results in any loud, unreasonable, or unusual noise, grating,

grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

- (b) No person shall operate an engine of any motor vehicle as defined by the Texas Transportation Code so as to brake or slow the vehicle through the use of a compression release brake (commonly known as “jake braking”), transmission gears, or by any other method which produces any noise in addition to the normal operating engine noise.
- (c) No person shall operate or allow an engine on any sort of motor vehicle, except emergency equipment or vehicles located at a permitted public event or parade, to idle for more than one (1) hour.

Sec 6.304 Amplified Sound

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (1) in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or (2) at any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet or more from a vehicle shall be presumed to be a violation of this Section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50 feet or more from the property line of a property or premises in which the amplification is located shall be presumed to be violation of this Section.
- (b) Amplified sound emanating from any horn, instrument, player, radio, phonograph, or other amplification device or attachment on the public street or other public or private place during nighttime hours is prohibited.
- (c) It is an affirmative defense to prosecution under this Section that the sound source is a motor vehicle and that:
 - (1) The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and
 - (2) The use is in compliance with all other provisions of this article.

Sec 6.305 Noisy Animals and Birds

- (a) The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in Section 6.306 of this article.
- (b) In any prosecution for a violation of this section, the fact that any loud animal noise which disturbed any person, and which occurs in residential areas either:

- (1) During nighttime hours; or
- (2) When none of the residents who reside at the place where the animal or bird is being kept are at home; shall create a rebuttable presumption that such noise was in violation of this article.
- (3) In any prosecution for a violation of this Section, the fact that any animal or bird has been allowed or permitted to persistently and chronically violate this Section, as demonstrated by the issuance of two or more citations and/or the receipt of two or more complaints from more than one household within a two month period shall create a rebuttable presumption that such noise was in violation of this article.

Sec 6.306 Maximum Permissible Sound Levels

- (a) In addition to the violations established by the preceding sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible beyond the property on which the sound is being generated that when measured as provided in Section 6.307 of this code exceeds 80 dB(A) during daytime hours and 70 dB(A) during nighttime hours for the respective areas described above. Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be *prima facie* evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.
- (b) Regardless of the measurable dB(A) level established above, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the sound is being generated to experience physically detectable sound, vibrations or resonance at a distance of fifty (50) feet from the source of the sound caused by the sound shall also be *prima facie* evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.
- (c) This section is designed to regulate noise by various alternate means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this article because it is disturbing to a reasonable person of ordinary sensibilities pursuant to Section 6.302 or because it is prohibited. If a noise violates one or more of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

Sec 6.307 Method of Sound Measurement

Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements of sound generated shall be taken from the curb line of the nearest public street to the property where the sound is generated and taken toward the source of the sound. In the event that there is not at least fifty feet (50) of distance from the building in which sound is being generated and from which sound is being measured,

then measurements shall be taken from the street curb line opposite the said building of the nearest public street to the property where the sound is generated.

Sec 6.308 Permit Required For Use of Outdoor Sound Amplification Equipment

- (a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the levels specified in Section 6.306, without first obtaining a permit to do so.
- (b) No permit is required for any use not exceeding the said permissible levels.
- (c) The permit shall be granted only for the amplification of music or human speech, or both.
- (d) The permit:
 - (1) May be obtained by making application to the director of the city department so designated by the City Manager.
 - (2) Requires payment of a \$10.00 fee for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
 - (3) Is valid for a specifically requested and approved period between the hours of 8:00 a.m. and 10:00 p.m. in residential areas or between 7:00 a.m. and 12:00 a.m. (midnight) in nonresidential areas.
 - (4) Shall not be issued to the same or any other person for the same location more than twice during any 30 day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day. For special events which will take place over a two or three day time period in a City or POA park, the City Manager may approve a special permit to accommodate the entire event period in one permit.
 - (5) Shall specify the maximum sound level permitted.
- (e) The permit application required to be filed pursuant to this section shall contain the following information:
 - (1) The date of the application and the date and hours for which the permit is requested;
 - (2) The name and address of the applicant;
 - (3) The name and address of the person who will have charge of the sound amplifying equipment;
 - (4) The address and a description of the location where the sound equipment will be used; and
 - (5) A description of the type of sound amplifying equipment to be used.
- (f) The permit hereby required is not required for the purpose of regulating speech which is protected speech or to conflict with any law of any superior governmental authority.

(g) Any regulation hereof that is in conflict with any such right or authority is hereby declared to be inoperative and severable from the other regulations herein.

Sec 6.309 Defenses

The following defenses shall apply to any offense established in this article, and the same must be specifically asserted by anyone charged with a violation:

- (a) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency.
- (b) The sound was produced by an authorized emergency vehicle.
- (c) The sound was produced by emergency work or an emergency situation.
- (d) The sound was generated:
 - (1) At a lawfully scheduled stadium event;
 - (2) By a parade and/or spectators and participants on the parade route during a lawful parade;
 - (3) By spectators and participants at lawfully scheduled amphitheater, ball field or stadium event;
 - (4) By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained, and the explosives were inspected by the fire marshal;
 - (5) By a pyrotechnic display that was inspected and approved by the fire marshal; or
 - (6) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or cosponsored by the city and in full compliance with a permit issued by the city.
- (e) The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, which activity did not produce a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received.
- (f) The sound was produced by aircraft, in flight or in operation at an airport. This defense shall not apply to aircraft maintenance operations which require the operation of the aircraft engine for testing and which exceed allowable sound levels before 7:00 a.m. or after 10:00 p.m. Jet engines being tested are restricted to pulses of less than two minutes duration.
- (g) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 10:00 p.m. when the sound is being produced for the maintenance or upkeep of the property on which it was operated. Golf course mowing and dry stack boat storage operations are permitted to begin at 6:00 a.m.

- (h) The sound was generated as authorized under the terms of a permit issued under Section 6.308 of this article.
- (i) The sound was produced by church bells or church chimes when used during daytime hours.
- (j) The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletics, band and school entertainment practice or events.

Sec 6.310 Penalty

- (a) A person commits an offense if the person makes noise in violation of a provision of this article.
- (b) An offense under this article is a class C misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$2,000.00, or, if the person has previously been convicted of a violation under this article, by a fine of not less than \$200.00 nor more than \$2,000.00, as is consistent with the portion of this code governing penalties for health and safety violations.
- (c) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
- (d) A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.
- (e) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person, for injury or damage arising from any violation of this article or from other law.

ARTICLE 6.400 ABANDONED, INOPERABLE OR UNREGISTERED VEHICLES, AIRCRAFT AND WATERCRAFT

Sec. 6.401 Purpose

Except as authorized by specific provisions of Chapter 14 of the Lago Vista Code of Ordinances or as exempted below, all abandoned, inoperable or unregistered vehicles, aircraft, and watercraft, including any parts thereof, that are visible from a public place or neighboring property are prohibited as:

- (a) Detriments to the safety and welfare of the general public;
- (b) Tending to reduce the value of private property;
- (c) Inviting vandalism;
- (d) Contributing to fire hazards;
- (e) Constituting an attractive nuisance detrimental to the health and safety of minors in particular;
- (f) Producing urban blight adverse to the maintenance and continuing development of the municipality; and
- (g) Creating a public nuisance.

Sec. 6.402 Definitions

The words used in this article and not defined by their context or in this section shall have their ordinarily accepted meaning. Otherwise, the following words and phrases shall have the meaning respectively ascribed to them below:

Abandoned, Inoperable or Unregistered Aircraft. any vessel that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment that can be described in any one or more of the following ways:

- (a) Has been stored for more than 90 days on City property at the Rusty Allen Airport during which time the City has been unable to determine and/or locate the owner;
- (b) Is wrecked, discarded, "junked," dismantled or partially dismantled;
- (c) Is inoperable and has remained inoperable for more than 180 days;
- (d) Is not properly licensed or registered in the manner provided by the Federal Aviation Administration (FAA) registration regulations; or
- (e) Does not have identifications numbers clearly displayed on the aircraft in compliance with Federal Aviation Administration (FAA) regulations.

Abandoned, Inoperable or Unregistered Vehicle. any vehicle, whether motorized or not including passenger cars, trucks, recreational vehicles (RVs), campers, travel trailers or motorcycles that can be described in any one or more of the following ways:

- (a) Is wrecked, discarded, "junked," dismantled or partially dismantled;
- (b) Is inoperable or immovable and has remained in that condition for more than:
 - (1) Seventy-two hours if the vehicle is on public property; or
 - (2) Thirty consecutive days if the vehicle is on private property.
- (c) Does not include both of the following lawfully attached certifications:
 - (1) An unexpired license plate; and
 - (2) A current motor vehicle registration/inspection decal.

Abandoned, Inoperable or Unregistered Watercraft. any structure or vessel designed or adapted to be navigated from place to place on the water (without or without propelling machinery), such as boats, ships, sailboats, barges, or jet skis, that can be described in any one or more of the following ways:

- (a) Is not secured to a trailer designed for that specific vessel type to be transported on public streets and includes both of the following attached certifications:
 - (1) An unexpired license plate; and
 - (2) A current motor vehicle registration/inspection decal.

- (b) Does not display current and valid Texas Parks and Wildlife Department registration decals;
- (c) Is wrecked, discarded, "junked," dismantled or partially dismantled;
- (d) Is otherwise damaged so as to be unsafe if launched and remains in that condition for more than seventy-two hours.

Antique Aircraft or Vehicle. an aircraft, passenger car or truck constructed by the original manufacturer (or licensee) on or prior to August 31, 1945.

Aircraft or Vehicle Collector. a person who:

- (a) Owns one or more antique or special interest aircraft or vehicles; and
- (b) Acquires, collects, restores, preserves, or disposes of an antique or special interest aircraft or vehicle for historic interest or public display.

Special Interest Aircraft or Vehicle. an aircraft or vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved.

Sec. 6.403 Applicability

The provisions of this article shall apply to all abandoned, inoperable, or unregistered vehicles, aircraft or watercraft, or parts thereof, except in accordance with the following specific exemptions:

- (a) When stored or completely enclosed within a building in a lawful manner and in accordance with all other applicable regulations such that the vehicle, aircraft or watercraft in question is not visible from any public or neighboring property;
- (b) When stored or parked in a lawful manner on private property in accordance with all other applicable regulations, including the provisions of Chapter 14, Zoning by an active business with all appropriate or required credentials and when all such outdoor areas are:
 - (1) Maintained in an orderly manner;
 - (2) Do not contribute to a health or safety hazard; and
 - (3) Are screened from ordinary public view by appropriate means, including fencing and/or landscaping.
- (c) Antique or special interest aircraft or motor vehicles stored or parked in a lawful manner on the private property of an aircraft or vehicle collector and when all such outdoor areas are:
 - (1) Maintained in an orderly manner;
 - (2) Do not contribute to a health or safety hazard; and
 - (3) Are screened from ordinary public view by appropriate means, including fencing and/or landscaping.

(d) Static Display of the F-4 Phantom II Jet on loan to the City of Lago from the National Museum of the United States Air Force.

Sec. 6.404 Enforcement Procedures

(a) **Prior Notice.**

(1) Prior to any official action being taken to abate and remove a vehicle, aircraft or watercraft constituting a public nuisance, from private or public property (including a right-of-way), not less than fifteen days' notice shall be given, except as hereinafter provided, to the following parties:

- (A) The last known registered owner of the vehicle, aircraft or watercraft as shown on the certificate of title;
- (B) Any lien holder of record;
- (C) When the vehicle, aircraft or watercraft is located on private property, the owner or occupant of that property; and
- (D) When the vehicle, aircraft or watercraft is located on public property (including a right-of-way), the owner or occupant of all adjacent private property.

(2) In the case of an aircraft, the additional provisions below are applicable.

- (A) If the City is unable to determine the ownership of an aircraft that has been located on public property at the Rusty Allen Airport for more than 90 days, the City may petition a district court in Travis County to determine the ownership of the aircraft if:
 - (i) The City has provided notice in the same manner as provided by Transportation Code, Section 683.012 for notice of an abandoned motor vehicle; and
 - (ii) The City has contacted the Federal Aviation Administration in an attempt to identify the owner of the aircraft.
- (B) If an owner of an aircraft fails to claim the aircraft within 60 days after the date notice is given and the court declares the aircraft as abandoned property, and grants title to the aircraft to the City, the City shall dispose of the aircraft in the same manner the city disposes of salvage or surplus property.
- (C) A determination of ownership made by the court under this Section does not affect the right of the City to recover fees against the owner of the aircraft for storage or maintenance costs or fees.

(3) The notice shall be mailed, by certified mail with a five-day return requested, and a copy of such notice shall also be affixed in a conspicuous manner to the vehicle, aircraft, or watercraft, and shall state the following:

- (A) The nature of the public nuisance;

- (B) That it must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;
- (C) That any, request for a hearing must be made before the fifteen-day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;
- (D) That the persons required to be noticed are entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and
- (E) That failure to abate the nuisance or failure to attend the hearing after notice constitutes a waiver by the owner and lien holders of all right, title and interest in the vehicle, aircraft or watercraft and shall be deemed as their consent to disposal of the property under the applicable terms of the Texas Transportation Code.

- (4) If the post office address of the last known registered owner of the public nuisance is unknown, notice may be affixed in a conspicuous manner to the vehicle, aircraft, or watercraft, or, if the owner is located, hand delivered.
- (5) If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.

(b) Hearing.

- (1) At the public hearing, the City Council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.
- (2) At the hearing an abandoned, damaged, or unregistered vehicle, aircraft or watercraft is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (3) Following the public hearing, the City Council shall consider all evidence and determine whether the vehicle, aircraft or watercraft, or any part thereof, constitutes a public nuisance as alleged. If the City Council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this article have been met, the City Council shall make a written order setting forth his findings and ordering that the nuisance be abated.
- (4) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the following:
 - (A) Description of the movable property (vehicle, aircraft, or watercraft);
 - (B) Vehicle or other equivalent or similar identification number;
 - (C) License plate number of any vehicle or trailer;
 - (D) Registration number or other similar certification numbers; and

- (E) A statement that all such movable property (vehicle, aircraft, watercraft, or trailer) will be disposed of in accordance with the Texas Transportation Code.
- (5) The relocation of a vehicle, aircraft or watercraft that is a public nuisance to another location within the municipal limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the same movable property constitutes a public nuisance at the new location.

(c) Abatement and Disposal.

- (1) In the event the City Council orders abatement of the nuisance, the City or any duly authorized person may abate such public nuisance by removal and disposal of the movable property in question.
- (2) After any vehicle, aircraft or watercraft has been removed under the authority of this article, it shall not be reconstructed or made operable again.
- (3) Any vehicle, aircraft or watercraft taken into custody by the City or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of Chapter 683, subchapter E of the Texas Transportation Code.

(d) Notice to State.

No later than the fifth day after the date of removal of a vehicle, aircraft or watercraft pursuant to this article, notice must be given to the state Department of Transportation. Such notice must identify the movable property in question.

(e) Offenses and Penalty.

A person commits an offense by maintaining a public nuisance described by this article. Such an offense is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of Chapter 1 of this code. Each day an offense occurs or continues shall be considered a separate offense.

CHAPTER 8

OFFENSES AND NUISANCES

ARTICLE 8.300 NOISE SEX OFFENDERS RESIDENCY

Sec 8.301 Definition Finding and Intent

~~The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning:~~

~~Daytime Hours. The hours from 7:00 a.m. on one day and 10:00 p.m. the same day for residential properties or areas and 6:00 a.m. on one day and 12:00 midnight on the same day for nonresidential properties or areas.~~

~~dB(4). The intensity of a sound expressed in decibels.~~

~~Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.~~

~~Emergency Work. Any work performed for the purpose of:~~

- (e) ~~Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency:~~ The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, chapter 62, present an extreme threat to the health, safety, and welfare of children. Sex offenders are likely to repeat an offense, have many more victims than are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves, but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.
- (f) ~~Restoring property to a safe condition following a fire, accident, or natural disaster:~~ It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.
- (e) ~~Protecting persons or property from exposure to danger: or~~
- (d) ~~Restoring public utilities.~~

~~Nighttime Hours. The hours between 10:01 p.m. on one day and 6:59 a.m. the following day for residential properties or areas and 12:01 a.m. and 5:59 a.m. the same day for nonresidential properties or areas.~~

Nonresidential Property/Areas. Any real property that is not included in the definition of residential property as defined in this Section. Without limitation, the term includes properties that have been zoned other than as residential property, and properties that are devoted to public purposes, such as public parks.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

Property Line. With respect to single occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Residential Property/Areas. Any real property zoned R-1, R-2, or R-4.

Streets. In the same category as the surrounding zoning. In the case of residential properties/areas which are across the street from nonresidential properties/areas, the street shall be considered to be in a residential area.

Sec 8.302 General Regulations Definitions

The following words, terms, and phrases; when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Any Premises Where Children Commonly Gather. This term includes, but is not limited to, a playground, playscape, school, day-care facility, crisis center or shelter, skate park, youth soccer or baseball field, video arcade facility, public or private youth center, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, Section 481.134.

Minor. A minor is a person younger than seventeen (17) years of age.

Residence. The place within the city:

- (f) *It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In determining whether a noise is too loud, unnecessary, or unusual, the following factors shall be considered: time of day; proximity to residential properties/areas as defined above; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof. Where a person registers or verifies under article 62.152, Texas Code of Criminal Procedure, as the person's residence;*
- (g) *It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that either exceeds the maximum permitted sound levels specified in Section 8.306 of this code or, for purposes of Sections 8.303, 8.304, and 8.305 of this code, otherwise unreasonably disturbs, injures, or endangers the comfort, repose,*

~~health, peace, or safety of others.~~ Where a person abides, lodges, or resides for more than seven consecutive days;

- (h) ~~It shall be unlawful for any person to pour a slab, demolish a building, or utilize any power tools for commercial or industrial purposes before 7:00 a.m. or after 7 p.m. on any day, or at anytime on Sunday, Christmas Day, New Year's Day or Thanksgiving Day without having been issued a permit for such activity to be conducted on the property upon which the pouring, demolition or use of tools is to take place. Such permit will specify the dates and times during which the work is authorized to occur. This prohibition shall not apply to emergency work which may be verbally authorized by the city manager or the mayor.~~ Where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence; or
- (i) ~~The acts enumerated in the following Sections of this article, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.~~ Where a person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
- (e) ~~This article shall not apply to any law enforcement personnel, equipment or activity nor to any public utility or public works personnel, equipment or activity while in the performance of their official duties.~~

Sec 8.303 ~~Noisy Vehicles Generally Sex Offender Residency Prohibition~~

- (d) ~~The use of any motor vehicle so out of repair or so extra loaded, that it creates any loud and unreasonable or unusual, (that is, not standard equipment for the type vehicle, or which violates state regulations for equipment or emissions), grating, grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.~~ It is unlawful for a person who is required to register on the Texas Department of Public Safety's Sex Offender Database pursuant to V.T.C.A., Texas Code of Criminal Procedure, chapter 62 because of a violation involving a victim who was less than seventeen (17) years of age, to establish a permanent or temporary residence within one thousand (1,000) feet of any premise where children commonly gather. It shall be *prima facie* evidence that this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age.
- (e) ~~No person shall operate an engine of any motor vehicle as defined by the Texas Transportation Code so as to brake or slow the same through the use of gears (commonly known as jake braking) or by any other method which produces any noise in addition to the normal operating engine noise.~~ For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one (1) property, measuring from the nearest wall of the building or structure occupied or the parking lot/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map generally depicting the prohibited areas is available at the city's police department.
- (e) ~~No person shall operate or allow an engine of any sort of motor vehicle, except emergency equipment or vehicles then located at a permitted public event or parade, to idle for more than one (1) hour.~~

Sec 8.304 Amplified Sound Penalties

The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.

- (d) ~~It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (1) in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or (2) at any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet or more from a vehicle shall be presumed to be violation of this Section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50 feet or more from the property line of a property or premises in which the amplification is located shall be presumed to be violation of this Section. Criminal Prosecution.~~ Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this Section shall continue shall constitute a separate offense.
- (e) ~~Amplified sound emanating from any horn, instrument, player, radio, phonograph, or other amplification device or attachment on the public street or other public or private place during nighttime hours is prohibited. Civil Remedies.~~ Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law including, but not limited to, the following:
 - (1) Injunctive relief to prevent specific conduct that violates the Section or to require specific conduct that is necessary for compliance with the Section;
 - (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with the Section; and
 - (3) Other available relief.
 - (4) Culpable Mental State Not Required. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.
- (e) ~~It is an affirmative defense to prosecution under this Section that the sound source is a motor vehicle and that:~~
- (d) ~~The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and~~
- (e) ~~The use is in compliance with all other provisions of this article.~~

Sec 8.305 Noisy Animals And Birds Exceptions

This Section does not apply to the following situations:

- (c) ~~The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in Section 8.306 of this code. The person is not required to comply with chapter 62 of the Texas Code of Criminal Procedure.~~
- (d) ~~In any prosecution for a violation of this Section, the fact that any loud animal noise which disturbed any person and which occurs in residential areas either:~~ The person was a minor when he/she committed the offense and was not convicted as an adult.
 - (4) ~~During nighttime hours; or~~
 - (5) ~~When none of the residents who reside at the place where the animal or bird is being kept are at home; shall create a rebuttable presumption that such noise was in violation of this article.~~
 - (6) ~~In any prosecution for a violation of this Section, the fact that any animal or bird has been allowed or permitted to persistently and chronically violate this Section, as demonstrated by the issuance of two or more citations and/or the receipt of two or more complaints from more than one household within a two month period shall create a rebuttable presumption that such noise was in violation of this article.~~
- (c) The person is a minor.
- (d) The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the person's permanent residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.'
- (e) The person proves to the Texas Department of Public Safety that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person erroneously listed on the database.
- (f) The person has established permanent residency prior to the effective date of this article by owning the property in fee simple and said person is in compliance with all sex offender registration laws of the state.

Sec 8.306 Maximum Permissible Sound Levels Property Owners Prohibited from Renting Real Property to Sexual Offenders; Penalty

- (d) ~~In addition to the violations established by the preceding Sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible beyond the property on which the sound is being generated that when measured as provided in Section 8.307 of this code exceeds 80 dB(A) during daytime hours and 70 dB(A) during nighttime hours for the respective areas described above. Any sound that exceeds the dB(A) levels set forth in this Section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified~~

~~in this Section shall be prima facie evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article. It is unlawful to knowingly rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this code, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within one thousand (1,000) feet, as determined pursuant to Section 8.1003(b), of any premises where children commonly gather.~~

- (e) ~~Regardless of the measurable dB(A) level established above, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the sound is being generated to experience physically detectable sound, vibrations or resonance at a distance of fifty (50') feet from the source of the sound caused by the sound shall also be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article. Penalty-Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to a suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.~~
- (f) ~~This Section is designed to regulate noise by various alternate means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this article because it is disturbing to a reasonable person of ordinary sensibilities pursuant to Section 8.302 or because it is prohibited. If a noise violates one or more of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the city. Criminal Prosecution. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this article shall continue shall constitute a separate offense.~~
- (d) Civil Remedies. Nothing in this Section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this Section and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this Section or to require specific conduct that is necessary for compliance with this Section;
 - (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with this Section; and
 - (3) Other available relief.
- (e) Affirmative Defense. It is an affirmative defense to prosecution for an offense under this Section that on or prior to the date of the alleged offense, the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the department of public safety's sexual predator registration database, and that at the time the property owner conducted the criminal history check and reviewed the sexual predator database the sexual offender's criminal

history did not include a record of a sexual offense and the offender's name did not appear in the database.

See 8.307 Method Of Sound Measurement

Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements of sound generated shall be taken from the curb line of the nearest public street to the property where the sound is generated and taken toward the source of the sound. In the event that there is not at least fifty feet (50') of distance from the building in which sound is being generated and from which sound is being measured, then measurements shall be taken from the street curb line opposite the said building of the nearest public street to the property where the sound is generated.

See 8.308 Permit Required For Use Of Outdoor Sound Amplification Equipment

(a) —

- (1) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the levels specified in Section 8.306, without first obtaining a permit to do so.
- (2) No permit is required for any use not exceeding the said permissible levels.
- (3) The permit shall be granted only for the amplification of music or human speech, or both.
- (4) The permit:
 - (A) May be obtained by making application to the director of the city department so designated by the city manager.
 - (B) Requires payment of a \$10.00 fee for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
 - (C) Is valid for a specifically requested and approved period between the hours of 8:00 a.m. and 10:00 p.m. in residential areas or between 7:00 a.m. and 12:00 midnight in nonresidential areas.
 - (D) Shall not be issued to the same or any other person for the same location more than twice during any 30 day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day. For special events which will take place over a two or three day time period in a city or POA park, the city manager may approve a special permit to accommodate the entire event period in one permit.
 - (E) Shall specify the maximum sound level permitted.

(b) The permit application required to be filed pursuant to this Section shall contain the following information:

- (6) The date of the application and the date and hours for which the permit is requested.
- (7) The name and address of the applicant.
- (8) The name and address of the person who will have charge of the sound amplifying equipment.
- (9) The address and a description of the location where the sound equipment will be used.
- (10) A description of the type of sound amplifying equipment to be used.
- (11) The permit hereby required is not required for the purpose of regulating speech which is protected speech or to conflict with any law of any superior governmental authority.
- (12) Any regulation hereof that is in conflict with any such right or authority is hereby declared to be inoperative and severable from the other regulations herein.

See 8.309 Defenses

The following defenses shall apply to any offense established in this article, and the same must be specifically plead by anyone charged with a violation:

- (k) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency.
- (l) The sound was produced by an authorized emergency vehicle.
- (m) The sound was produced by emergency work or an emergency situation.
- (n) The sound was generated:
 - (7) At a lawfully scheduled stadium event;
 - (8) By a parade and/or spectators and participants on the parade route during a lawful parade;
 - (9) By spectators and participants at lawfully scheduled amphitheater, ball field or stadium event;
 - (10) By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
 - (11) By a pyrotechnic display that was inspected and approved by the fire marshal; or
 - (12) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or cosponsored by the city and in full compliance with a permit issued by the city.

- (o) ~~The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, which activity did not produce a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received.~~
- (p) ~~The sound was produced by aircraft, in flight or in operation at an airport. This defense shall not apply to aircraft maintenance operations which require the operation of the aircraft engine for testing and which exceed allowable sound levels before 7:00 a.m. or after 10:00 p.m. Jet engines being tested are restricted to pulses of less than two minutes duration.~~
- (q) ~~The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 9:00 p.m. when the sound is being produced for the maintenance or upkeep of the property on which it was operated. Golf course mowing and dry stack boat storage operations are permitted to begin at 6:00 a.m.~~
- (r) ~~The sound was generated as authorized under the terms of a permit issued under Section 8.308 of this code.~~
- (s) ~~The sound was produced by church bells or church chimes when used during daytime hours for the zone in which the church is located.~~
- (t) ~~The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic, band and school entertainment practice or events.~~

See 8.310 Penalty

- (f) ~~A person commits an offense if the person makes noise in violation of a provision of this article.~~
- (g) ~~An offense under this article is a class C misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$2,000.00, or, if the person has previously been convicted of a violation under this article, by a fine of not less than \$200.00 nor more than \$2,000.00, as is consistent with the portion of this code governing penalties for health and safety violations.~~
- (h) ~~Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.~~
- (i) ~~A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.~~
- (j) ~~No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person, for injury or damage arising from any violation of this article or from other law.~~

ARTICLE 8.800 JUNKED VEHICLES RESERVED

See 8.801 Definitions

As used in this article:

Antique Vehicle. Means a passenger car or truck that is at least thirty five years old.

Junked Vehicle. Means any vehicle that is self propelled and:

(a) Does not have lawfully attached to it:

- (1) An unexpired license plate; or
- (2) A valid motor vehicle inspection certificate;

(b) Is wrecked, dismantled or partially dismantled or discarded; or

(c) Is inoperable and has remained inoperable for more than:

- (1) Seventy two hours if the vehicle is on public property; or
- (2) Thirty consecutive days if the vehicle is on private property.

Motor Vehicle Collector. Means a person who:

(a) Owns one or more antique or special interest vehicles; and

(b) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

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

See 8.802 Junked Vehicles Declared Public Nuisance

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way.

- (a) Is detrimental to the safety and welfare of the general public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates fire hazards;
- (e) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
- (f) Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (g) Is a public nuisance.

See 8.803 Notice

(a) Prior to any official action being taken to abate and remove a junked vehicle constituting a public nuisance, from private property, public property or public right of way, not less than fifteen days notice shall be given, except as hereinafter provided, to the following parties:

- (1) The last known registered owner of the junked vehicle as shown on the certificate of title;
- (2) Any lienholder of record; and
- (3) The owner or occupant of the property upon which the junked vehicle is located or the owner or occupant of the premises adjacent to the public right of way on which the junked vehicle is located.

(b) The notice shall be mailed, by certified mail with a five day return requested, and a copy of such notice shall also be affixed to the front windshield of the vehicle, and shall state the following:

- (1) The nature of the public nuisance;
- (2) That it must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;
- (3) That any request for a hearing must be made before the fifteen day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;
- (4) That the persons entitled to notice shall be entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and
- (5) That failure to abate the nuisance or failure to attend the hearing after notice constitutes a waiver by the owner and lienholders of all right, title and interest in the vehicle and their consent to disposal for the junked vehicle under the terms of the Texas Transportation Code concerning the disposal of junked vehicles.

(c) If the post office address of the last known registered owner of the junked vehicle is unknown, notice may be placed on the junked vehicle, or, if the owner is located, hand delivered.

(d) If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.

See 8.804 Hearing

(a) At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.

(b) At the hearing the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(c) Following the public hearing, the city council shall consider all evidence and determine whether the vehicle, or any part thereof, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this division have been met, the city council shall make a written order setting forth his findings and ordering that the nuisance be abated.

(d) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the vehicle's:

- (1) Description;
- (2) Vehicle identification number;
- (3) License plate number; and
- (4) A statement that the vehicle will be disposed of in accordance with the Texas Transportation Code.

(e) The relocation of a junked vehicle that is a public nuisance to another location within the corporate city limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

See 8.805 Abatement Of Nuisance

In the event the city council orders abatement of the nuisance, the city or any duly authorized person may abate such public nuisance by removal and disposal of the junked vehicle.

See 8.806 Junked Vehicles Not To Be Made Operable After Removal

After any junked vehicle has been removed under the authority of this article, it shall not be reconstructed or made operable again.

See 8.807 Notice To Department Of Transportation

No later than the fifth day after the date of removal of a junked vehicle pursuant to this article, notice must be given to the state Department of Transportation. Such notice must identify the vehicle.

See 8.808 Disposal Of Junked Vehicles

Any junked vehicles taken into custody by the city or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of Chapter 683, subchapter E of the Texas Transportation Code.

See 8.809 Application Of Article

The provisions of this article shall not apply to a vehicle or vehicle part that is:

- (a) Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (1) Maintained in an orderly manner;

- (2) Not a health hazard; and
- (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

See 8.810 Offense; Penalty

~~A person commits an offense if the person maintains a public nuisance described by Section 8.802. An offense under this article is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of this code. Each day an offense occurs shall be a separate offense.~~

ARTICLE 8.900 JUNKED AND ABANDONED AIRCRAFT RESERVED

Sec 8.901 Definitions

~~As used in this article:~~

Abandoned Aircraft. An aircraft for which the city is unable to determine the ownership of that has been located for more than 90 days at an airport owned by the city.

Aircraft. A device that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment.

Antique Aircraft. An aircraft constructed by the original manufacturer (or licensee) on or prior to August 31, 1945.

Classic Aircraft. An aircraft constructed from September 1, 1945 through 1955.

Junked Aircraft. Any aircraft that:

- (a) Is not properly licensed or registered in the manner provided by the Federal Aviation Administration registration regulations;
- (b) The aircraft does not have identifications numbers clearly displayed on the aircraft in compliance with federal aviation regulations;
- (c) Is wrecked, dismantled or partially dismantled or discarded; or
- (d) Is inoperable and has remained inoperable for more than 180 days.

See 8.902 Abandoned Aircraft

- (a) If the city is unable to determine the ownership of an aircraft that has been located at an airport owned by the city for more than 90 days, the city may petition a district court in the county to determine the ownership of the aircraft if:
 - (1) The city has provided notice in the same manner as provided by Transportation Code, Section 683.012 for notice of an abandoned motor vehicle; and
 - (2) The city has contacted the Federal Aviation Administration in an attempt to identify the owner of the aircraft.

- (b) If an owner of an aircraft fails to claim the aircraft within 60 days after the date notice is given and the court declares the aircraft as abandoned property, and grants title to the aircraft to the city, the city shall dispose of the aircraft in the same manner the city disposes of salvage or surplus property.
- (c) A determination of ownership made by the court under this Section does not affect the right of the local government to recover fees against the owner of the aircraft for storage or maintenance of the aircraft.

See 8.903 Declared Public Nuisance

A junked aircraft, including a part of a junked aircraft, which is visible from a public place or public right of way:

- (a) Is detrimental to the safety and welfare of the general public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates fire hazards;
- (e) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
- (f) Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (g) Is a public nuisance.

See 8.904 Notice

- (a) Prior to any official action being taken to abate and remove a junked aircraft constituting a public nuisance, from private property, public property or public right of way, not less than fifteen days notice shall be given, except as hereinafter provided, to the following parties:
 - (1) The last known registered owner of the junked aircraft as shown by the records of the Federal Aviation Administration or the Secretary of state for the aircraft;
 - (2) Any lien holder of record with the Federal Aviation Administration or the Secretary of state for the aircraft; and
 - (3) The owner or occupant of the property upon which the junked aircraft is located or the owner or occupant of the premises adjacent to the public right of way or city owned property on which the junked aircraft is located.
- (b) The notice shall be mailed, by certified mail with a five day return requested, and a copy of such notice shall also be affixed to the front windshield of the aircraft, and shall state the following:
 - (1) The nature of the public nuisance;

- (2) ~~It must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;~~
- (3) ~~Any, request for a hearing must be made before the fifteen day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;~~
- (4) ~~The persons entitled to notice shall be entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and~~
- (5) ~~Failure to abate the nuisance or failure to attend the hearing after notice aircraft and their consent to disposal for the junked aircraft under the terms of the Texas Transportation Code concerning the disposal of abandoned aircraft.~~
- (e) ~~If the post office address of the last known registered owner of the junked aircraft is unknown, notice may be placed on the junked aircraft or, if the owner is located, hand delivered.~~
- (d) ~~If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.~~

Sec 8.905 Hearing

- (a) ~~At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.~~
- (b) ~~At the hearing the junked aircraft is presumed, unless demonstrated otherwise by the owner, to be inoperable.~~
- (c) ~~Following the public hearing, the city council shall consider all evidence and determine whether the aircraft, or any part thereof, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this Section have been met, the city council shall make a written order setting forth his findings and ordering that the nuisance be abated.~~
- (d) ~~If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the aircraft's:~~
 - (1) ~~Description;~~
 - (2) ~~Identification number;~~
 - (3) ~~Registration number; and~~
 - (4) ~~A statement that the aircraft will be disposed of in accordance with the Texas Transportation Code.~~
- (e) ~~The relocation of a junked aircraft that is a public nuisance to another location within the corporate city limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the junked aircraft constitutes a public nuisance at the new location.~~

See 8.906 Abatement Of Nuisance

~~In the event the city council orders abatement of the nuisance, the city or any duly authorized person may abate such public nuisance by removal and disposal of the junked aircraft.~~

See 8.907 Not To Be Made Operable After Removal

~~After any junked aircraft has been removed under the authority of this article, it shall not be reconstructed or made operable again.~~

See 8.908 Notice To Department Of Transportation

~~No later than the fifth day after the date of removal of a junked aircraft pursuant to this article, notice must be given to the state department of transportation. Such notice must identify the aircraft.~~

See 8.909 Disposal Of Junked Aircraft

~~Any junked aircraft taken into custody by the city or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of chapter 683, subchapter E of the Texas Transportation Code.~~

See 8.910 Application Of Article

~~The provisions of this article shall not apply to an aircraft or an aircraft part that is:~~

- ~~(a) Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or~~
- ~~(b) Stored or parked in a lawful manner on private property in connection with the business of a licensed aircraft dealer, or that is an antique or classic aircraft stored by an aircraft collector on the collector's property, if the aircraft or part and the outdoor storage area, if any, are:~~
 - ~~(1) Maintained in an orderly manner;~~
 - ~~(2) Not a health hazard; and~~
 - ~~(3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.~~

See 8.911 Offense; Penalty

~~A person commits an offense if the person maintains a public nuisance described by Section 8.903. An offense under this article is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of this code. Each day an offense occurs shall be a separate offense.~~

ARTICLE 8.1000 SEX OFFENDERS RESIDENCY RESERVED

See 8.1001 Finding And Intent

- ~~(a) The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, chapter 62, present an extreme threat~~

~~to the health, safety and welfare of children. Sex offenders are likely to repeat an offense, have many more victims than are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.~~

(b) ~~It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.~~

See 8.1002 Definitions

~~The following words, terms, and phrases; when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.~~

Any Premises Where Children Commonly Gather. ~~This term includes, but is not limited to, a playground, playscape, school, day care facility, crisis center or shelter, skate park, youth soccer or baseball field, video arcade facility, public or private youth center, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, Section 481.134.~~

Minor. ~~A minor is a person younger than seventeen (17) years of age.~~

Residence. ~~The place within the city:~~

- (a) ~~Where a person registers or verifies under article 62.152, Texas Code of Criminal Procedure, as the person's residence;~~
- (b) ~~Where a person abides, lodges or resides for more than seven consecutive days;~~
- (c) ~~Where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence; or~~
- (d) ~~Where a person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.~~

See 8.1003 Sex Offender Residency Prohibition

- (a) ~~It is unlawful for a person who is required to register on the Texas Department of Public Safety's Sex Offender Database pursuant to V.T.C.A., Texas Code of Criminal Procedure, chapter 62 because of a violation involving a victim who was less than seventeen (17) years of age, to establish a permanent or temporary residence within one thousand (1,000) feet of any premise where children commonly gather. It shall be prima facie evidence that~~

~~this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age.~~

(b) ~~For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one (1) property, measuring from the nearest wall of the building or structure occupied or the parking lot/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map generally depicting the prohibited areas is available at the city's police department.~~

Sec 8.1004 Penalties

~~The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.~~

(a) ~~**Criminal Prosecution.** Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this Section shall continue shall constitute a separate offense.~~

(b) ~~**Civil Remedies.** Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law including, but not limited to, the following:~~

(1) ~~Injunctive relief to prevent specific conduct that violates the Section or to require specific conduct that is necessary for compliance with the Section;~~

(2) ~~A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with the Section; and~~

(3) ~~Other available relief.~~

(4) ~~**Culpable Mental State Not Required.** Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.~~

Sec 8.1005 Exceptions

~~This Section does not apply to the following situations:~~

(a) ~~The person is not required to comply with chapter 62 of the Texas Code of Criminal Procedure.~~

- (b) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (c) The person is a minor.
- (d) The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the person's permanent residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.'
- (e) The person proves to the Texas Department of Public Safety that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person erroneously listed on the database.
- (f) The person has established permanent residency prior to the effective date of this article by owning the property in fee simple and said person is in compliance with all sex offender registration laws of the state.

See 8.1006 Property Owners Prohibited From Renting Real Property To Sexual Offenders; Penalty

- (a) It is unlawful to knowingly rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this code, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within one thousand (1,000) feet, as determined pursuant to Section 8.1003(b), of any premises where children commonly gather.
- (b) Penalty Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.
- (c) Criminal Prosecution. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this article shall continue shall constitute a separate offense.
- (d) Civil Remedies. Nothing in this Section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this Section and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this Section or to require specific conduct that is necessary for compliance with this Section;

- (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with this Section; and
- (3) Other available relief.

(e) ~~Affirmative Defense. It is an affirmative defense to prosecution for an offense under this Section that on or prior to the date of the alleged offense, the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the department of public safety's sexual predator registration database, and that at the time the property owner conducted the criminal history check and reviewed the sexual predator database the sexual offender's criminal history did not include a record of a sexual offense and the offender's name did not appear in the database.~~

CHAPTER 14

ZONING

2.10 Definitions

The words used in this chapter and not defined in this section shall have their ordinarily accepted meaning. For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them herein:

TOWNHOUSE: Means a structure on a separately platted lot, which is one of a series of three (3) or more attached dwelling units designed and used for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other, and which have their own front and rear access to the outside. No dwelling unit is located over another unit. A condominium apartment (as defined in Section 81, ~~of the Tex. Prop. Code~~ *Texas Property Code*) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it.

TRAILER OR VEHICLE-COMMERCIAL USE: Every ~~trailer or~~ vehicle designed for carrying heavy machinery, vehicles, and equipment used for commercial purposes, and is ~~propelled, moved, or~~ drawn on ~~the a~~ highway or street ~~by a~~ motor vehicle with a gross weight or gross weight rating in excess of 10,000 pounds. "Gooseneck" trailers and all utility trailers with a length greater than 16 feet shall be defined as a commercial trailer regardless of gross weight or gross weight rating.

TRAILER-UTILITY USE: Every ~~vehicle~~ non-commercial trailer designed for carrying personal property, ~~residential debris~~, or recreational equipment such as golf carts, boats, and motorcycles, and is drawn on ~~the a~~ highway or street by a motor vehicle. "Gooseneck" trailers and all utility trailers with a length greater than 16 feet shall be defined as a commercial trailer regardless of gross weight or gross weight rating.

VEHICLE: Every device by which any person or property may be propelled, moved, or drawn upon a highway ~~or street~~.

6.10 Accessory Buildings and Uses.

Construction, placement, operation, and maintenance of accessory buildings and uses shall comply with the following standards and procedures.

(a) Accessory uses and buildings shall not be permitted on a lot ~~or parcel~~ in the absence of a principal use or building on the lot ~~or parcel~~ except as provided in Section 4.90 (commercial resorts), Section 17 (conditional uses), and Section 22 (fences) of this chapter, ~~or the lots or parcels with the principal and accessory use(s) or building(s) are platted into one lot~~. A separate lot adjacent to a

principal use or building with common ownership must instead obtain approval for an amended plat that permits the proposed accessory use or building to be located on the same lot as the principal use or building. Once an accessory use such as an accessory building, or boat dock exists on a replatted ~~or~~ single lot with a principal use or building, it cannot be subdivided until (1) a principal use or building is established on the lot containing the accessory building or use; ~~or~~ (2) the accessory use or building has been removed from the lot, ~~unless otherwise~~; or (3) has been approved in accordance with Section 17, conditional uses, of this chapter.

(b) Residential Districts. In zoning districts permitting one- or two-family dwellings, accessory buildings and uses are permitted according to the following:

- (1) Number. No more than two accessory buildings thirty (30) sq. ft. and larger shall be permitted on a lot or parcel.
- (2) Screening and Landscaping. For accessory buildings to be located on property (a) adjacent to a one- or two-family use or a zoning district that allows one- or two-family use; and (b) for which a wall or walls face and are closer than 25 feet to adjoining property, the accessory building wall shall be screened as follows:
 - (A) One shrub, cactus, tall ornamental grasses, dwarf palm or combination thereof that is/are at least two feet tall or from a five-gallon bucket shall be planted within four feet of the wall to be screened for every three feet or fraction thereof wall to be screened; and
 - (B) One tree at least 1-1/2 inches in diameter at 3.5 feet above the ground shall be planted within 10 feet of the wall to be screened for every 25 feet or fraction thereof wall to be screened.
 - (C) Existing shrubs or other low screening plants that are at least two feet tall and trees may be used to meet the screening requirement.
 - (D) In lieu of landscape screening, the accessory building wall may be screened by a solid fence or hedgerow that is at least six feet tall.
 - (E) If the adjoining property to be screened has an existing solid fence or hedgerow that is at least six feet tall, screening of the accessory building is not required.
 - (F) Screening of accessory vehicular garages permitted in the front yard of a principal building is not required.
- (3) Accessory buildings under 30 sq. ft.
 - (A) Placement and setback. These buildings shall not have a setback.
 - (B) Height. These buildings shall be no taller than nine (9) feet measured from the highest grade adjacent to the building and no taller than six (6) feet at the eaves.
 - (C) Permitting Not Required. A permit is not required before placement of this building.

(4) Accessory buildings between 30 sq. ft.–120 sq. ft.

- (A) Placement and setback. These buildings shall not be placed within the front yard. They may be placed within the side and rear yard, but no closer than five (5) feet to a side or rear lot line. Setback from a corner side lot line shall be at least fifteen (15) feet.
- (B) Height. These buildings shall be no taller than nine (9) feet measured from the highest grade adjacent to the building and no taller than six (6) feet at the eaves.
- (C) Permitting Required. A permit issued from the Development Services Department is required before placement of this building.

(5) Accessory buildings larger than 120 sq. ft.

- (A) Placement and setback. These buildings shall meet the same front, side, and rear yard setback standards as the principal building or accessory building shall have a minimum front yard setback of 20', whichever results in the greatest front yard setback.
- (B) Additional Regulations on Accessory Garages. It shall be at least 250 sq. ft. in size. Screening must meet landscaping and standards prescribed in subsection (E)(ii) below.
- (C) Architecture and material.
 - (i) For accessory buildings the facade material colors must match the principal building.
 - (ii) The roof shall be the same color as on the principal building. The roof pitch should be similar in perspective to that of the principal building.
- (D) Height. The height of the accessory building shall not exceed the lesser of the height of the principal building or the maximum height specified in Table A, Table of Development Standards for any given zoning district, except in accordance with the provisions of Section 11.60 below.
- (E) Additional Restrictions.
 - (i) The floor area of the accessory building cannot exceed fifty percent (50%) of the floor area of a principal building. For the purpose of determining compliance with this requirement only, floor area shall consist of any enclosed or attached covered area. When a covered area is attached to both a principal building and an accessory building, that area shall be included with the floor area of the accessory building.
 - (ii) The accessory building must be screened with landscaping from any street side with xeriscape evergreen shrubs a minimum of two (2) feet in height at time of plantings and maximum of three (3) feet on center. This excludes portions of the facade with pedestrian doors, vehicular access doors, and areas of the facade with two (2) feet or less between any doors and/or end of the facade.

Plantings shall be located near the building walls to the satisfaction of the City. Plantings shall be maintained and replaced as necessary to maintain this standard.

(F) Permitting Required. A permit issued from the Development Services ~~Dept.~~ Department is required before placement of this building.

(6) Carports. Carports are allowed in the manufactured home and industrialized housing zoning district but only by conditional use permit in other zoning districts. In manufactured home and industrialized housing districts, they may be attached or detached and there are no architecture or material standards.

6.65 Storage and Parking of All Vehicles, Including Boats, Trailers, and Recreational Vehicles.

(a) ~~Storage Any storage of junked unregistered, inoperable, or unlicensed vehicles that have the appearance of being inoperable; on a lot or parcel not specifically authorized by this chapter is prohibited unless contained within a building that screens them from any direction. This provision applies to all vehicles, including recreational vehicles, boats, and trailers, outside a building that completely screens it from view from any direction except from above, on any lot or parcel is prohibited. Covering the a vehicle outside of such a building with any material is does not screening screen it sufficiently for compliance with this requirement.~~

(b) When not fully enclosed within a structure or specifically authorized by this chapter, all non-commercial utility trailers (see Section 2.10 above), recreational vehicles or trailers designed for a boat, jet-ski, or motorcycle instead of materials or debris shall be located on an improved surface that addresses erosion control concerns and can support the vehicle or trailer.

(1) ~~All vehicles, including but not limited to recreational vehicles, boats, or trailers, commercial vehicles, and trailers, that are not involved in permitted or authorized construction or development activity parked in front of the building setback line or in front of the rear yard in the side setback shall be located on a concrete or asphalt driveway or parking apron, or an improved surface capable of supporting the vehicle such as concrete, asphalt, pavers, or similar material Such improved surface shall be located inside the property line of property with a principal (not accessory) use building and shall at all times be free of weeds, grass, refuse, debris, or standing water.~~

(2) ~~Such improved surface shall be located inside the property line of property with a principal (not accessory) use building Continuously improved access to the improved parking or storage surface from a public or private street is not required.~~

(3) ~~Such improved surface shall at all times be free of weeds, grass, refuse, debris, or standing water The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.~~

(4) ~~Such improved surface shall be calculated as part of the lot's impervious cover, which shall not exceed 50%. The degree to which a parking surface is pervious shall be determined by the building official. The building official may require a registered professional engineer to certify that the improved surface is pervious or the degree to which the improved parking surface is pervious.~~

- (5) ~~No vehicles shall be parked or stored in the front yard or corner side yard facing a street not an alley unless the vehicle is parked or stored on a driveway.~~
- (6) ~~For purposes of this section, the front yard and corner side yard facing a street shall be the area between the building facing the street and the street, excluding the area outside lines drawn from the side of the building perpendicular to and extending to the street.~~
- (7) ~~Access to the improved parking surface need not be improved.~~

(c) ~~Vehicles parked in front of the setback building line or in front of the rear yard in the side setback by occupants or their guest are prohibited unless such parking is of a temporary nature to accommodate vehicles, including recreational vehicles, boats, and trailers belonging to a guest attending a function or visiting the occupants on an overnight type basis for a brief period of time (not to exceed 72 hours). Extended parking of guest vehicles may be authorized by permit issued by the Chief of Police.~~

Commercial trailers, equipment, or vehicles (which does not include recreational vehicles, non-commercial utility trailers or other recreational trailers specified in the subsection directly above) are permitted to be parked or stored on residential property only within a fully enclosed garage or accessory building, or behind a fence that is no less than ninety-five (95) percent solid and no less than six (6) feet in height in a location permitted by Section 22.30 of this chapter or an approved variance.

- (1) When such vehicles, equipment, or trailers are parked or stored outside of a fully enclosed garage or accessory building, an improved surface that addresses erosion control concerns and can support the vehicle or trailer is required.
- (2) When partially concealed by a fence in accordance with the requirements above rather than a fully enclosed garage or accessory building, the improved parking or storage surface shall be located on the same lot as the primary residence.
- (3) The access route to the parking or storage locations for commercial trailers is not required to be paved.
- (4) The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.
- (5) These requirements do not apply to the temporary storage or parking of vehicles or trailers used to complete work authorized by active permits at this same location.

(d) ~~Commercial vehicles and trailers of all types shall not be parked or stored on any lot in any residential district except in accordance with the following provision(s): No more than one (1) commercial vehicle, which does not exceed one and one half (1 1/2) tons rated capacity, per family living on the premises shall be permitted, except when the vehicle or trailer is involved in construction, moving, or delivery of a product or service to the residence. In no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products or earth moving equipment or vehicles be permitted.~~

Commercial vehicles and equipment other than trailers (see Section 2.10 above) that are parked or stored on a residential property shall be located on an improved surface that is accessed by a driveway that is continuously connected to a public or private street and meets all applicable local requirements, including Chapter 11 of the Lago Vista Code of Ordinances.

- (1) Both the parking surface and the access driveway shall be constructed of a surface meeting all applicable local requirements.
- (2) Both the parking surface and the access driveway shall be located on the same lot as the primary residence.
- (3) The impervious surface limitation within Table A, Table of Development Standards shall include all improvements required by this section.

~~For purposes of this section a commercial vehicle is a motorized vehicle or trailer with a load capacity greater than 1 1/2 tons that is used in a commercial enterprise, or has a business or service or product sign on the vehicle, or whose principal use is to carry equipment or material.~~

6.100 Temporary Living Uses and Buildings.

- (a) **Camping or Temporary Living Accommodations.** Except as explicitly authorized elsewhere in this chapter or within this section below, ~~No~~ no property shall be used for camping or temporary living accommodations, at any time, ~~or shall a recreational vehicle be occupied more than 18 hours.~~
 - (1) The guests of the owner and members of a single-family residential household with a valid certificate of occupancy may utilize the rear yard of the property for camping for a maximum of fourteen (14) consecutive days.
 - (2) With advance written notice to the Chief of Police, the guests of the owner and members of a single-family residential household with a valid certificate of occupancy may utilize a recreational vehicle or camper parked on the property (not in a public right-of-way) as temporary living accommodations for a maximum of fourteen (14) days within any ninety (90) consecutive day period.
 - (3) With the advance written approval of ~~except as authorized by~~ the city manager or ~~his~~ their designee, ~~in order to secure equipment and supplies on a large commercial or building site or where a residential building~~ a recreational vehicle or camper may be utilized by the members of a single-family residential household (but not a contractor) as temporary living accommodations when that same single-family residence has been damaged or destroyed by nature or disaster and a permit has been issued for the required repairs or reconstruction ~~of a residential structure on the property in accordance with this chapter, except in a P district.~~
- (b) **Temporary Construction Uses and Buildings.**
 - (1) **Multifamily Residential and Commercial Permits.** Temporary buildings or structures are permitted to serve as storage or office space when associated with a permitted multifamily or commercial construction project. Temporary buildings or structures shall comply with the restrictions related to the "sight triangle" specified in Section 5.80 of this chapter unless a driveway in question is precluded from use during construction by temporary fencing or other similar acceptable barricades. All temporary buildings or structures shall be removed upon the completion or abandonment of construction work covered by the permit.
 - (2) **One and Two-Family Residential Permits.** A limited number of temporary buildings or structures to serve as storage or office space associated with a one or two-family residential construction project may be allowed for a specific duration when approved in advance as

part of the building permit review. A site plan showing the size and location of each temporary building or structure is required along with a description of the construction progress that will mandate the removal of each temporary building or structure. Temporary screening may be required, or minimum setbacks imposed for structures otherwise visible from an adjacent golf course.

(c) Model Homes. Any permitted single-family residence within a subdivision initially platted in 2007 or later may be used as a model home, subject to the provisions of this section and if that use is specified on a current and valid certificate of occupancy issued by the Lago Vista Development Services Department. For the purposes of this article, the term "model home" shall mean any structure designed for use as a single-family residential dwelling that is used or planned for use as a temporary sales office by the builder or entity marketing similarly constructed structures, or that is planned for use or used to demonstrate and market other similar single-family residences.

- (1) Each builder or ownership entity is limited to a maximum of five model homes within any platted subdivision, including all related sections or phases. No model home is permitted after the last lot or residence within a platted subdivision has been sold to an individual or entity that is not actively offering to build residences within that same platted subdivision, including all related sections or phases.
- (2) An amended certificate of occupancy is required whenever a model home is converted to permanent use as a single-family residence. Failure to apply for an amended certificate of occupancy prior to a conversion or when a model home is no longer permitted by the provisions of this section shall be considered a zoning ordinance violation, subject to the applicable penalties.
- (3) Model homes shall not be open and accessible to the public for the use permitted by this section before 9 a.m. or after 9 p.m.
- (4) Any sign allowed in a C-1 zoning district, including a monument sign, may be permitted in association with a model home as a temporary improvement for as long as the residence is permitted to be used in that manner by this section. However, all such signs shall be removed whenever the use is terminated and as a condition of the required amended certificate of occupancy.
- (5) With the exception of the ability to permit a sign not otherwise allowed in association with a single-family residence, all other development standards, building regulations (including outdoor lighting restrictions), and zoning requirements applicable to the property shall be strictly enforced, with no variance application available until after the use of the property as a model home has been terminated.
