



GARLAND

AGENDA

CITY COUNCIL WORK SESSION

City of Garland

Work Session Room, City Hall

200 North Fifth Street

Garland, Texas

January 17, 2017

5:30 p.m.

DEFINITIONS:

Written Briefing: Items that generally do not require a presentation or discussion by the staff or Council. On these items the staff is seeking direction from the Council or providing information in a written format.

Verbal Briefing: These items do not require written background information or are an update on items previously discussed by the Council.

Regular Item: These items generally require discussion between the Council and staff, boards, commissions, or consultants. These items are often accompanied by a formal presentation followed by discussion.

**[Public comment will not be accepted during Work Session
unless Council determines otherwise.]**

NOTICE: The City Council may recess from the open session and convene in a closed executive session if the discussion of any of the listed agenda items concerns one or more of the following matters:

(1) Pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct. Sec. 551.071, Tex. Gov't Code.

(2) The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.072, Tex. Gov't Code.

(3) A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.073, Tex. Gov't Code.

(4) Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Sec. 551.074, Tex. Gov't Code.

(5) The deployment, or specific occasions for implementation of security personnel or devices. Sec. 551.076, Tex. Gov't Code.

(6) Discussions or deliberations regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect of the sort described in this provision. Sec. 551.087, Tex. Gov't Code.

(7) Discussions, deliberations, votes, or other final action on matters related to the City's competitive activity, including information that would, if disclosed, give advantage to competitors or prospective competitors and is reasonably related to one or more of the following categories of information:

- generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
- bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
- effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
- risk management information, contracts, and strategies, including fuel hedging and storage;
- plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and
- customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies. Sec. 551.086; Tex. Gov't Code; Sec. 552.133, Tex. Gov't Code]

1. Written Briefings:

a. Optional Redemption of Tax Notes

When Council approved the issuance of \$7,350,000 Tax Notes, Series 2016 on September 6, 2016, it was contemplated that the City would exercise the call provision to redeem the notes on March 1, 2017 prior to the scheduled maturity date of November 1, 2017. Staff requests Council consider approving an ordinance to redeem the Tax Notes, Series 2016 as contemplated. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the February 7, 2017 Regular Meeting.

b. Updates, Amendments to, and Corrections of the Garland Code of Ordinances

Council is requested to consider a number of updates and amendments to, and corrections of, the Garland Code of Ordinances. The City Attorney recommends that certain amendments, deletions, and additions be made to various ordinances due to changes in the law. In addition, City staff proposes certain amendments as well. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the February 7, 2017 Regular Meeting.

2. Verbal Briefings:

a. Preview of 2017 Proposed CIP

Staff will provide an overview of the 2017 Proposed Capital Improvement Program (CIP), which will be formally presented by the City Manager at the January 17, 2017 Regular Meeting.

b. City Council Vision and Plan of Action to Reduce the Use of Debt Funding

At the request of Council Member Jim Cahill and Mayor Douglas Athas, Council is requested to review the City Council Vision and Plan of Action to Reduce the Use of Debt Funding that was presented and discussed at the April 18, 2016 Work Session and adopted by consensus (7 ayes, 2 nays) of the Council. Council Member Jim Cahill is requesting Council to re-affirm their commitment to this vision and plan of action or take action to change or revoke it.

c. Street Funding Resolution

At the request of Council Member Lori Barnett Dodson and Council Member Rich Aubin, Council is requested to consider adopting a resolution that establishes a funding and operation policy for repairs of streets and alleys. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the January 17, 2017 Regular Meeting.

d. Transportation Update

The Transportation Director will provide a monthly briefing on the activities related to funding the Strategic Transportation Initiatives of the City of Garland.

e. Code Compliance Parking Violation Pilot Study

At the request of Council Member B. J. Williams and Council Member Anita Goebel, Code Compliance staff will present the initial findings from a residential parking violation pilot study conducted by the department.

3. Consider the Consent Agenda

A member of the City Council may ask that an item on the consent agenda for the next regular meeting be pulled from the consent agenda and considered separate from the other consent agenda items. No substantive discussion of that item will take place at this time.

4. Announce Future Agenda Items

A member of the City Council, with a second by another member, or the Mayor alone, may ask that an item be placed on a future agenda of the City Council or a committee of the City Council. No substantive discussion of that item will take place at this time.

5. Adjourn



GARLAND POLICY REPORT

City Council Work Session Agenda

Work Session Item 1. a.

Meeting Date: January 17, 2017

Item Title: Optional Redemption of Tax Notes

Submitted By: Matt Watson, Finance Director

Council Goal: Financially Stable Government with Tax Base that Supports Community Needs

ISSUE

When Council approved the issuance of \$7,350,000 Tax Notes, Series 2016 on September 6, 2016, it was contemplated that the City would exercise the call provision to redeem the notes on March 1, 2017 prior to the scheduled maturity date of November 1, 2017. Staff requests Council consider approving an Ordinance to redeem the Tax Notes, Series 2016 as contemplated.

OPTIONS

1. Call the Tax Notes, Series 2016 on March 1, 2017.
2. Allow the Tax Notes, Series 2016 to mature on November 1, 2017.

RECOMMENDATION

Unless otherwise directed by Council, this item will be scheduled for formal consideration at the February 7, 2017 Regular Meeting.

BACKGROUND

The debt service savings generated from the General Obligation Commercial Paper program and a significant increase in the Property Tax base created additional debt capacity of \$7,350,000 in the FY 2016-17 budget. On September 6, 2016 City Council approved the issuance of a Tax Notes, Series 2016 in the amount of \$7,350,000 to fund additional infrastructure improvements. Tax Note, Series 2016 was issued with the intent of exercising the option to early redeem the tax notes.

CONSIDERATION

If Council approves this request to redeem the tax notes on March 1, 2017, the City will save approximately \$55,000 in interest cost paid from the General Obligation Interest & Sinking Fund.



**GARLAND
CITY COUNCIL ITEM SUMMARY SHEET**

City Council Work Session Agenda

Work Session Item 1. b.

Meeting Date: January 17, 2017

Item Title: Updates, Amendments to, and Corrections of the Garland Code of Ordinances

Submitted By: Brad Neighbor, City Attorney

Summary of Request/Problem

The City Council is requested to consider a number of updates and amendments to, and corrections of, the Garland Code of Ordinances. A full synopsis of the proposed changes is attached to this Item Summary Sheet along with drafts of each of the proposed ordinances that would enact the recommended changes.

Recommendation/Action Requested and Justification

As more fully explained in the attached synopsis, the City Attorney recommends that certain amendments, deletions, and additions be made to various ordinances due to changes in the law. In addition, City staff proposes certain amendments as well. Further information is attached.

If accepted for approval by the City Council, the ordinances will be presented at the February 7, 2017 regular meeting as a consent agenda item for final passage.

Attachments

Code of Ordinances Update 2017
Burglar Alarm Permit Amendment
Registration Microchip Dangerous Animal Amendment
Food Establishment Amendments
Repealing 22.59 and 26.03
City Hall Smoking
Sex Offender Multiple Residency
Criminal Transport Repeal
Self Insurance Program Ordinance Amendment
Utility and CO Termination Revision 2017
City Facilities Parking Amendments 2017 with Towing

UPDATE OF CODE OF ORDINANCES

The Garland Code of Ordinances has existed in various forms since the adoption of the City's first comprehensive code in 1964. A code of ordinances, like all legal codifications, is intended to be a compilation of laws (ordinances, in the case of a municipality) in a logical, indexed, and ordered format. Traditionally, legislative bodies enacted laws one at a time, a system still generally followed on the federal, state, and local levels. Without codifications of laws, we citizens - who are governed by those laws - would have to read through a stack of loose-leaf papers from beginning to end to determine how to comply with them. Codifications make that process easier by combining those laws into a format where laws regarding similar subject matters are grouped in chapters, articles, divisions, and so forth. In addition, when a law needs to be changed, it is much easier to narrow the modification to the smallest increment that will enable the modification to be accomplished. With a codification it is possible, for example, to amend "Section X.XX(A)(2)(b) of Chapter X" of the code of ordinances rather than "Ordinance Number XX" which have been adopted years ago and may cover any number of unrelated subjects.

The law is a dynamic thing, always changing. On the local level, we as a city are impacted by factors such as changes in federal law made by Congress, changes in state law made by the Texas Legislature, court cases issued by judges and, perhaps more importantly, changes in societies' needs and expectations. Some laws - ordinances included - simply become irrelevant as times change and other ordinances no longer reflect what the people want.

Due to those and other factors, our Code of Ordinances needs occasional maintenance. This is the first of what will be a series of proposed amendments. The Texas Legislature is likely to pass a number of bills in its 2017 session that will impact how Garland operates and the Code of Ordinances. Those laws will generate additional changes to our Code of Ordinances.

The following amendments are suggested for the Council's consideration.

* * *

Burglar alarms - The City, like most large cities, has a burglar alarm program generally governed by a permit system. Changes made to governing state law by the Texas Legislature require conforming

changes to be made to the City's burglar alarm program. The chief problem with burglar alarms is false alarms. The proposed changes conform to state law restrictions on what constitutes a false alarm and adds an opt-out provision for persons who want to have an alarm system that does not signal law enforcement when the alarm is triggered.

* * *

Animal registration; microchips; dangerous animal appeals -

Microchip in lieu of registration - A report by Strategic Government Resources in 2015 recommended significant changes to, or the elimination of, the requirement for animal registration. After considerable research, staff recommends the elimination of the requirement for animal registration in lieu of mandatory microchips for animals that are reclaimed from or adopted through the Animal Shelter. Microchips are considered the gold standard for animal identification and they function for the life of the animal. Adoption fees, currently \$80, would be increased by \$20 (a fixed cost) plus the cost of the microchip (a variable cost, currently \$5). All impounded animals are currently scanned for microchips. Under the proposed amendments, Animal Services officers who impound a micro-chipped animal will attempt to return the animal to its home prior to taking it to the Animal Shelter. Additionally, the proposed amendments will eliminate daily handling fees for partial days that animals are held in the Animal Shelter. All proposed changes were endorsed for forwarding to the City Council by the Animal Services Advisory Committee as well as the Community Services Committee.

Dangerous animals - The 2015 study by SGR included a recommendation to rewrite the section of ordinance pertaining to dangerous animals. The proposed amendments will clarify the dangerous animal process by narrowing the definition of dangerous animals, lessen the burden for the owners of animals deemed dangerous by allowing for a stay of removal pending an appeal, and standardize the appeal process by making it an administrative review of written statements or other submitted evidence. The amendments will give the animal services manager the authority to negotiate measures to protect the public from dangerous animals (such as improved fencing or obedience training) in lieu of ordering the animal to be removed from Garland. These changes were endorsed by the Animal Services Advisory Committee and considered by the Community Service Committee during its April 18, 2016 meeting. The committee

unanimously recommended forwarding the changes to the full City Council.

* * *

Food and food establishments -

General food service rules overhaul - The proposed amendments to the City's food service regulations replace in whole the current standards by adopting in their stead the state-model 2015 Texas Food Establishment Rules inclusive, however, of Garland-specific modifications. The Garland Health Department held two stakeholder meetings with food establishment owners/workers to discuss the proposed changes and encountered no opposition from the regulated community. The proposed changes were considered by the Community Services Committee during its June 20, 2016 meeting and were unanimously approved by that committee to be presented to the City Council.

Dogs in outdoor areas of food establishments - With the exception of service animals, Garland's ordinances generally prohibit animals in any part of a food establishment, including outdoor areas (patios). The proposed amendment creates a variance process and rules whereby dogs may be allowed in outdoor areas of food establishments. The idea of a variance to the general prohibition of animals in food establishments was discussed during the October 18, 2016 meeting of the Community Services Committee. The Committee directed staff to draft a proposed variance to be presented to the full City Council along with the other revisions to Chapter 22 discussed above.

* * *

Consumption of alcoholic beverages in public - Garland may be unique in the state for having an ordinance that purports to regulate the consumption of alcoholic beverages in public. Subsequent to the adoption of the ordinance, state law has been significantly amended to clarify that the Texas Alcoholic Beverage Code controls all aspects of alcoholic beverages - sales, advertising, distribution - and consumption. Our ordinance does not comport with state law in that regard and is thus preempted. Accordingly, the recommendation is that the ordinance be repealed.

* * *

Sale or possession of e-cigarettes to or by minors - When e-cigarettes became more common, even fashionable, there were no

state laws regulating the sale of such devices to minors or to their possession by minors. Garland was one of the first cities in the state to address the problem. State law eventually caught up and now covers what our ordinance covers. Thus, like the ordinance regarding consumption in public, the recommendation is that the ordinance be repealed. NOTE: A bill has been introduced for consideration in the next legislative session that would allow cities, on a local option basis, to increase the age of prohibition from 18 to 21.

* * *

Use of tobacco products and e-cigarettes in City facilities - State law does not preempt all aspects of local regulation of tobacco and e-cigarettes. The City has for some time prohibited the use of tobacco products and e-cigarettes within most City facilities. The proposed amendments will expand the prohibition on smoking, the use of other tobacco products, and e-cigarettes to 50 feet of an entrance or exit of a city-owned building and to City-owned parking facilities.

* * *

Restrictions on sex offenders residing in common dwellings - The City has received complaints from citizens about the bunching of registered sex offenders in a common dwelling, the concern being that having unrelated sex offenders living together may cross-enable continued recidivism. The proposed ordinance would prohibit registered sex offenders from living in the same dwelling with another sex offender and it would prohibit landlords from renting to multiple unrelated sex offenders. The ordinance provides defenses for sex offenders related by blood or marriage, for certain sex offenders who committed the predicate crime while young and with a willing participant (the so-called Romeo-Juliet defense), and for dwellings where multiple sex offenders reside for therapeutic reasons.

* * *

Criminal transport of non-employees in City vehicles - There is indeed such a crime in Garland. Ordinance No. 508 was adopted in April, 1954. It was codified into the original 1964 Code of Ordinances and was carried over from there into the current Code of Ordinances as Sec. 10.06. The ordinance makes it a crime to transport anyone who is not a City employee in a City-owned vehicle "except in furtherance of the official business of the City".

While that rule makes sense, it should be (and is) a matter of personnel directives and employee discipline, not a Class C misdemeanor. As best as anyone can recall, the ordinance has never been enforced. The problem with the ordinance is that it invites potentially erratic and vindictive enforcement unless every moment a non-employee is in a City vehicle can be justified as furthering official City business. Our recommendation is that the ordinance be repealed.

* * *

Revisions to liability self-insurance program - In the late 1980s cities throughout the state found themselves unable to buy liability insurance of any sort. As a result, the citizens of Garland amended the City's charter to authorize and require the establishment of a liability self-insurance fund. The ordinance that implemented the City's self-insurance program (codified at Chapter 41, Article V, Section 41.71, *et seq.*) has remained largely untouched since that time. Some changes to that ordinance are necessary to bring it into line with current City practices, to clean up some of the older language used in the original ordinance, and to account for changes in the law. Of particular importance are the changes to Sec. 41.81 of the Code of Ordinances which pertain to limitations on coverage and the obligation of persons covered by the self-insurance program to comply with the terms and conditions of coverage.

* * *

Revocation of certificates of occupancy - The City has in place and has used successfully in the past a provision under which the Building Official may revoke a certificate of occupancy for a business that is operating illegally or, in the terms of the ordinance, is operating as a criminal enterprise. There are two issues in the ordinance that should be clarified, however. First, the person whose certificate of occupancy is to be revoked should clearly have participated in the predicate offending conduct that forms the basis for the revocation. This ordinance borrows some of the language used in similar federal laws to specify what sort of conduct could result in CO revocation. Second, the proposed ordinance will close a loophole that currently allows a business to continue operating even when a certificate of occupancy has been revoked. If the proposed amendment is made, after a certificate of occupancy has been revoked, no one related to the business may apply for a new CO until at least 180 days have passed since the day of revocation.

* * *

Revamping of parking regulations in the City's parking garages -

With the relatively recent opening of the City Hall parking facility, the City now patrols two parking structures in the downtown area. There are parking rules currently in place for the City's parking garages, but they are generally enforced by the issuance of parking citations. In some instances, however, it is necessary to enforce those regulations by towing. In order to allow enforcement by towing, procedures need to be spelled out in the City's parking facilities ordinances to specify what notice must be given or attempted before an offending vehicle may be towed. The proposed amendments will supplement rather than replace the general rules for parking enforcement contained in Chapter 24 of the Code of Ordinances.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 26, "POLICE - MISCELLANEOUS PROVISIONS AND OFFENSES", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PERMIT FEE UNDER THE PROVISIONS OF SEC. 26.72 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SERVICE FEE PENALTY UNDER THE PROVISIONS OF SEC. 26.83 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Sec. 26.70 of Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by amending the definitions of "False burglar alarm notification" and "False robbery alarm notification" to respectively read as follows:

"False burglar alarm notification. A burglar alarm notification to the Police Department that is uncorroborated by eyewitness, video, or photographic evidence and where police officer(s) respond within thirty minutes of being notified and from an inspection of the interior or exterior of the alarm site find no evidence that criminal activity occurred."

"False robbery alarm notification. A robbery alarm notification to the Police Department when the responding police officer(s) find no evidence of a robbery."

Section 2

That Sec. 26.71(A) of Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) A person commits an offense if he operates or causes to be operated an alarm system without an alarm permit issued by the director unless that person has opted to exclude the City from receiving an alarm signal by an alarm system located at the alarm site as provided in subsection (H).

Section 3

That Sec. 26.71(H) of Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(H) A person opting to exclude the City from receiving an alarm signal by an alarm system located on the person's property shall submit a notification form containing the following information:

- (1) The name, home address and primary telephone number of the person who will be responsible for the alarm system and payment of any fines assessed under this article;
- (2) Classification of the alarm site as residential, commercial, financial institution or senior citizen;
- (3) Identification of each alarm type at the alarm site (e.g. burglary, robbery, fire, etc.);
- (4) The type of alarm announcer, whether audible or silent, at the alarm site;
- (5) An acknowledgement that the person will be responsible for fee not to exceed \$250 for each response requested to the alarm site; and
- (6) Other information required by the director which is necessary for the enforcement of this article."

Section 4

That Sec. 26.72 of Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 26.72 Permit fee, duration and renewal

The fee for a residential alarm permit or a renewal of a residential alarm permit is \$50.00 a year, unless the applicant is over the age of 65, in which case the fee is \$42.50. The fee for a business alarm permit or the renewal of a business alarm permit is \$100.00 a year. Alarm site locations described in [section 26.83\(I\)](#) of this article are required to maintain valid permits, but are exempt from any permit fee. A permit is valid for one (1) years from the date of its issuance. It is the responsibility of the permit holder to renew the permit prior to expiration. The City will provide at least thirty (30) days' notice to the permit holder of the expiration date. A completed renewal application must be completed

not less than ten (10) days before the expiration of the alarm permit."

Section 5

That Sec. 26.83(A) of Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) False burglar alarms. The director may assess the permit holder of an alarm site, or anyone who operates or causes to be operated an alarm system without an alarm permit issued by the director, a fee in the following amount, as applicable, for the signaling of a false burglar alarm:

- (1) \$50.00, if the alarm site has had more than three (3) but fewer than six (6) other false burglar alarms in the preceding 12-month period;
- (2) \$75.00, if the alarm site has had more than five (5), but fewer than eight (8) other false burglar alarms in the preceding 12-month period; or
- (3) \$100.00, if the alarm site has had eight (8) or more other false burglar alarms in the preceding 12-month period.

The director may assess anyone who operates or causes to be operated an alarm system without an alarm permit issued by the director, a fee in the amount of \$250.00 for the signaling of a false burglar alarm.

A false burglar alarm shall not be considered to have occurred unless a response is made by an agency of the City within 30 minutes of the alarm notification, there is no corroborated eyewitness, video, or photographic evidence of criminal activity, and the agency determines from an inspection of the interior or exterior of the alarm site that the alarm was false."

Section 6

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 7

That Chapter 26, "Police - Miscellaneous Provisions and Offenses", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 8

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 9

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the ____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

"False burglar alarm notification. A burglar alarm notification to the police when the responding police officer(s) find no evidence of a burglary or attempted burglary Police Department that is uncorroborated by eyewitness, video, or photographic evidence and where police officer(s) respond within thirty minutes of being notified and from an inspection of the interior or exterior of the alarm site find no evidence that criminal activity occurred."

"False robbery alarm notification. A robbery alarm notification to the police Police Department when the responding police officer(s) find no evidence of a robbery."

"(A) A person commits an offense if he operates or causes to be operated an alarm system without an alarm permit issued by the director unless that person has opted to exclude the City from receiving an alarm signal by an alarm system located at the alarm site as provided in subsection (H).

"(H) A person opting to exclude the City from receiving an alarm signal by an alarm system located on the person's property shall submit a notification form containing the following information:

- (1) The name, home address and primary telephone number of the person who will be responsible for the alarm system and payment of any fines assessed under this article;
- (2) Classification of the alarm site as residential, commercial, financial institution or senior citizen;
- (3) Identification of each alarm type at the alarm site (e.g. burglary, robbery, fire, etc.);
- (4) The type of alarm announcer, whether audible or silent, at the alarm site;
- (5) An acknowledgement that the person will be responsible for fee not to exceed \$250 for each response requested to the alarm site; and
- (6) Other information required by the director which is necessary for the enforcement of this article."

"Sec. 26.72 Permit fee, duration and renewal

The fee for a residential alarm permit or a renewal of a residential alarm permit is ~~\$100.00, unless the applicant is over the age of 65, in which case the fee is \$85.00~~ \$50.00 a year, unless the applicant is over the age of 65, in which case the fee is \$42.50. The fee for a business alarm permit or the renewal of a business alarm permit is ~~\$200.00~~ \$100.00 a year. Alarm site locations described in section 26.83(I) of this article are required to maintain valid permits, but are exempt from any permit fee. A permit is valid for ~~two (2)~~ one (1) years from the date of its issuance. ~~The director may provide a shorter duration of not less than one (1) year unless otherwise necessary to conform the permit to the termination schedule for such permits established by the City.~~ It is the responsibility of the permit holder to renew the permit prior to expiration. The City will provide at least thirty (30) days' notice to the permit holder of the expiration date. A completed renewal application must be completed not less than ten (10) days before the expiration of the alarm permit."

"(A) False burglar alarms. The director may assess the permit holder of an alarm site, or anyone who operates or causes to be operated an alarm system without an alarm permit issued by the director, a fee in the following amount, as applicable, for the signaling of a false burglar alarm:

- (1) \$50.00, if the alarm site has had more than three (3) but fewer than six (6) other false burglar alarms in the preceding 12-month period;
- (2) \$75.00, if the alarm site has had more than five (5), but fewer than eight (8) other false burglar alarms in the preceding 12-month period; or
- (3) \$100.00, if the alarm site has had eight (8) or more other false burglar alarms in the preceding 12-month period.

The director may assess anyone who operates or causes to be operated an alarm system without an alarm permit issued by the director, a fee in the amount of \$250.00 for the signaling of a false burglar alarm.

A false burglar alarm shall not be considered to have occurred unless a response is made by an agency of the City within 30 minutes of the alarm notification, there is no corroborated eyewitness, video, or photographic evidence of criminal activity, and the

agency determines from an inspection of the interior or exterior of the ~~premises~~ alarm site that the alarm was false."

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS, A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 22.04(B) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(B) Identification, fees, and requirements.

(1) At the request of an owner, Animal Services shall implant an animal with a microchip identification device. The fee for this service shall be twenty dollars plus the cost of the microchip.

(2) The Director of Health may reduce fees associated with adoption, microchip implants, and vaccination in conjunction with a promotional event involving Animal Services."

Section 2

That Section 22.05(A) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) Animals subject to impoundment.

(1) Any animal infected with a zoonotic disease including, but not limited to, any animal suspected of having been infected by rabies or exposed to rabies;

(2) Any animal that creates a nuisance, as defined in Section 22.08;

(3) Any animal running at large;

- (4) Any animal kept under conditions or treated in a manner which the Supervisor of Animal Services has reasonable cause to believe is cruel or inhumane;
- (5) Any animal that has bitten a person;
- (6) Any animal found in violation of Section 22.18(F); or
- (7) Any animal violation any other provision of this article."

Section 3

That Section 22.05(D) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(D) Notification of animal owner of impoundment. Animal Services shall make reasonable effort to contact the owner of any impounded animal; provided, however, that responsibility for locating an impounded animal is that of the owner."

Section 4

That Section 22.05(E) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(E) Reclaiming impounded animals generally. Unless otherwise provided in this section, the owner of an impounded animal may regain possession upon payment of impoundment fees, handling fees and any veterinarian bills incurred by Animal Services for the welfare of the animal and upon compliance with the vaccination and microchip provisions of this article. An animal that the Supervisor of Animal Services or the City veterinarian has reasonable cause to believe is a dangerous animal may not be reclaimed and shall be disposed of as provided in this article. If the owner cannot provide proof of a current rabies vaccination, the impounded animal must be revaccinated prior to release. The fee for rabies vaccination shall be fifteen dollars. Prior to release, Animal Services shall implant impounded dogs and cats with a microchip identification device. The fee for this service shall be

twenty dollars plus the cost of the microchip. Additional fees may be charged if emergency veterinary services are rendered. Animals less than 12 weeks of age will not require a rabies vaccination prior to release from the animal shelter."

Section 5

That Section 22.05(K) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(K) Adoption of impounded cats or dogs authorized. Any impounded cat or dog not implanted with a microchip identification device or not wearing tags that identify the owner may be released for adoption after seventy-two hours, unless the animal is under quarantine. An impounded cat or dog implanted with a microchip identification device or wearing tags that identify the owner may be released for adoption on or after the sixth day of confinement."

Section 6

That Section 22.05(M) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(M) Disposition of injured or ill animals. An impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a nonprofit humane organization or animal rescue club for the purpose of veterinary medical care, as determined by the Supervisor of Animal Services or the City veterinarian. The Supervisor of Animal Services shall make reasonable efforts to contact the owner of any injured or ill animal that is implanted with a microchip identification device prior to making a disposition of the animal. The City veterinarian shall have authority to treat or euthanize animals held at the shelter as necessary to prevent the spread of disease in the event of a communicable zoonotic disease outbreak."

Section 7

That Section 22.06(A) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

“(A) Impoundment fees generally. Impoundment fees shall be as follows:

(1) Class A, dogs and cats, each dog or cat:

	<u>First Impoundment</u>	<u>Second Impoundment</u>	<u>Third Impoundment</u>	<u>Fourth Impoundment</u>
Spayed or Neutered	\$25	\$35	\$45	\$55
Unspayed Or Neutered	\$125	\$150	\$175	\$200

If an impounded dog or cat is spayed or neutered and is found to have been implanted with a microchip identification device at the time it is impounded, the first impoundment fee will be waived. For an unspayed or unneutered dog or cat, if the owner provides proof of surgical sterilization to the Department within thirty days of the day the animal was reclaimed, the owner will be given a seventy-five dollar refund. Dogs and cats under the age of six months shall be charged the sterilized dog or cat impoundment fee. Animals may be exempted from sterilization upon written recommendation from a licensed veterinarian that such alternatives would be harmful or dangerous to the animal; and the owner shall be charged the lower impoundment fees for sterilized animals.

(2) Class B, small or miniature livestock; such as goats, sheep, pigs, calves, foals, and animals of the same approximate size and weight, each animal:

<u>First Impoundment</u>	<u>Second Impoundment</u>	<u>Third Impoundment</u>	<u>Fourth Impoundment</u>
\$100	\$125	\$150	\$175

(3) Class C, large livestock; such as cattle, horses, ponies, mules, and animals of the size and weight, each animal:

<u>First Impoundment</u>	<u>Second Impoundment</u>	<u>Third Impoundment</u>	<u>Fourth Impoundment</u>
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\$100	\$125	\$150	\$175
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(4) Class D, wild animals, and large exotics, each animal:

<u>First</u> <u>Impoundment</u>	<u>Second</u> <u>Impoundment</u>	<u>Third</u> <u>Impoundment</u>	<u>Fourth</u> <u>Impoundment</u>
\$100	\$175	\$200	\$225

(5) Class E, domestic fowl, small exotic animals or other small mammals, such as ferrets, rabbits and hedgehogs, each animal:

<u>First</u> <u>Impoundment</u>	<u>Second</u> <u>Impoundment</u>	<u>Third</u> <u>Impoundment</u>	<u>Fourth</u> <u>Impoundment</u>
\$25	\$35	\$45	\$55

Animals not listed above shall be disposed of at the direction of the Supervisor of Animal Services."

Section 8

That Section 22.06(B) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(B) Daily handling fees. A daily handling fee shall be charged for every day that an animal is at the animal shelter. Daily handling fees shall be based upon the class of animal enumerated in subsection (A) above, and shall be paid in addition to impoundment fees:

Class A	\$5.00
Class B	\$10.00
Class C	\$10.00
Class D	\$15.00
Class E	\$10.00"

Section 9

That Section 22.06(D)(1)(e) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(e) The prospective adopter shall pay a fee for adoption of dogs and cats in the amount of one hundred dollars plus the cost of the microchip identification device. The animal to be adopted will be sterilized, vaccinated for rabies, and implanted with a microchip identification device at the time of adoption. If the animal has previously been sterilized or is medically unable to be sterilized, the adoption fee will be reduced to fifty-five dollars plus the cost of the microchip identification device. The fee for adoption of animals other than dogs and cats shall be set by the Supervisor of Animal Services."

(i) If the City veterinarian is unable to spay or neuter an animal prior to adoption, the prospective adopter shall pay a fee of one hundred dollars plus the cost of the microchip and shall sign an agreement with the Supervisor of Animal Services to have the animal spayed or neutered at a private veterinary clinic within ninety days of the date of adoption. It shall be an offense to fail to spay or neuter an animal adopted under the provisions of this subsection within ninety days of the receipt of possession of the animal.

(ii) If the animal is spayed or neutered within the time frame specified in the adoption agreement, the adopter shall be issued a refund of forty-five dollars."

Section 10

That Section 22.10(B)(4) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(4) Each potbellied pig shall wear, at all times, a harness with a tag identifying the owner and address of the owner;"

Section 11

That Section 22.10(C)(4) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(4) Each pygmy goat shall wear, at all times, a collar with a tag identifying the owner and address of owner;"

Section 12

That Section 22.11 of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended in its entirety to read as follows:

"Sec. 22.11. Domestic ferrets.

In addition to other generally applicable requirements, the owner of a ferret shall comply with the following standards:

- (A) A ferret must be currently vaccinated for rabies;
- (B) A ferret allowed outside the owner's enclosure shall be kept on a leash;
- (C) Each ferret shall wear a collar with a tag identify the owner and the address of the owner;
- (D) Any ferret over the age of six months shall be sterilized."

Section 13

That Section 22.13(A) of Chapter 26, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) A person seeking a permit to operate a commercial business covered by this article shall fully and truthfully complete an application in a form provided by the Supervisor of Animal Services and shall pay the required application fee. The application fee for miniature livestock, domestic ferrets, and special reptiles shall be \$25.00 per year."

Section 14

That Section 22.10(L)(1) of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby amended by to read as follows:

"(L) Dangerous animal means any animal of any species that has:

- (1) With or without provocation, on two or more occasions attacked or bitten any person or other animal outside the owner's home or the animal's enclosure;"

Section 15

That Section 22.20(B) of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby amended by to read as follows:

"(B)(1) *Authority to require removal from City; appeals from orders of removal; stay of removal pending appeal.* The Supervisor of Animal Services may order the owner of any dangerous animal to immediately remove the animal permanently from the City limits. If the animal is a dog, the Supervisor of Animal Services may, as an alternative to ordering the removal of the animal, determine that the animal is a dangerous dog within the meaning of section 822.041, Texas Health and Safety Code, in which event the owner shall comply in all respects with the applicable provisions of chapter 822, Texas Health and Safety Code. If the Supervisor of Animal Services orders a dangerous animal to be permanently removed from the City, the decision is final unless the owner files a written appeal with the hearing officer appointed under section 24.25 of this Code

within 15 days after receiving notice of the order of removal. If the Supervisor of Animal Services has exercised the discretionary option provided in this section with respect to a dangerous dog in lieu of ordering the animal removed as a dangerous animal, the owner may appeal as provided by section 822.0421(b), Texas Health and Safety Code, and if the appeal is filed in the Municipal Court, the standard of review is substantial evidence. An appeal of a determination that an animal is dangerous shall be heard by the hearing officer on a written record of proceedings based upon written declarations submitted by the owner of the animal, the person filing the appeal (if different from the owner), the Supervisor of Animal Services or other employee of Animal Services designated by the Supervisor, and such other interested persons who have testimony or evidence to provide relevant to the determination being appealed. On the written motion of any interested person and for good cause, the hearing officer may allow for the taking of oral evidence at the hearing. In any event, all evidence submitted shall be sworn or otherwise submitted subject to penalty of perjury.

(2) The filing of a notice of appeal under subsection (1) automatically operates as a stay of the order of removal but only if the animal that has been ordered removed is surrendered until final disposition of the appeal to a licensed veterinarian or to Animal Services pending final determination of the appeal.

(3) In lieu of issuing an order of removal under this section, the Supervisor of Animal Services may defer removal if the owner of the animal agrees in writing to keep the animal under such conditions of confinement as the Supervisor of Animal Services shall determine are appropriate for the animal, taking into consideration the animal, the ability of the owner to comply with the conditions of confinement, and the nature of the incident or incidents on which the determination of dangerousness was based. A deferment of removal may be revoked if the subject animal is involved in another incident of the sort described in section 22.10(L) or the owner fails to comply with the agreed conditions of confinement in any respect."

Section 16

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 17

That Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 18

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 19

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH" OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

Section 22.25 of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas is hereby amended to read as follows:

Sec. 22.25 Adoption of the Texas Food Establishment Rules

The Texas Food Establishment Rules ("the Food Establishment Rules"), 25 TAC §§228.1-228.278, 2015 edition, is hereby adopted by reference. A copy shall be kept on file in the office of the City Secretary. Unless deleted, amended, expanded or otherwise changed in this Code of Ordinances, all provisions of the Texas Food Establishment Rules as adopted in this section shall be fully applicable and binding and of full force and effect within the City.

Section 2

Section 22.26 of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas is hereby amended to read as follows:

Sec. 22.26 Amendments made to the Texas Food Establishment Rules

The Texas Food Establishment Rules ("the Food Establishment Rules" or "TFER") as adopted in Section 22.25 above is amended in the following respects:

Section 228.2, relating to definitions, is amended by amending the following definitions to read as follows:

Accredited program. Food manager certification program or food handling training course that has been evaluated and

listed by the department and conforms to standards set by the department.

Central Preparation Facility. A facility that is an approved and permitted retail food establishment at which food is prepared, stored, and wrapped; and the Mobile Food Unit is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink. Use of a private residence as a central preparation facility is prohibited. Any food establishment used as a central preparation facility shall:

- (A) Be permitted and inspected by a local regulatory authority or the department of state health services;
- (B) Be constructed in a manner approved by the regulatory authority; and
- (C) Meet all applicable zoning, health, building, and fire codes.

Food establishment. A food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:

- (A) a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- (B) an establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers;

- (C) includes an element of the operation such as a transportation vehicle or a central preparation vehicle facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premise; and regardless of whether there is a charge for the food; and
- (D) food establishment does not include an establishment that is a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a Bed and Breakfast Limited facility as defined in this chapter, or a private home that receives catered or home-delivered food.

Mobile Food Unit. A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, mobile food preparation vehicles, and push carts) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth.

Regulatory authority. The Director of Health of the City or his or her designated representative.

Temporary food establishment. A food establishment that operates at a fixed location for a period of time of not more than five (5) consecutive days in conjunction with a specific event.

Section 228.2, relating to definitions, is further amended by adding the following definitions:

Approved source. A food processing establishment where the conditions and methods of preparation and/or packaging are subject to official regulation or inspection by federal, state or local health authorities and where all federal, state and local regulations are complied with.

Catering truck. Any mobile food unit from which approved, prepackaged foods are sold or conveyed in such a manner that no direct food contact results.

Concession facility. A food service establishment located within a building or permanent structure equipped with electricity, public water supply, and sanitary sewer and which is operated in association with sports and athletic or similar recreational activities on a seasonal basis.

Condiments. Spices, salt, pepper, sugar, catsup, mustard, mayonnaise, sauces, nondairy creamers and other similar items added by the consumer to food.

Cottage food production operation. An individual, operating out of the individual's home,

- (A) who produces at the individual's home, a baked good that is not a time/temperature controlled for safety food (TCS), as defined by Texas Health and Safety Code Section 437.0196; candy; coated and uncoated nuts; unroasted nut butters; fruit butters; a canned jam or jelly; a fruit pie; dehydrated fruit or vegetables, including dried beans; popcorn and popcorn snacks; cereal, including granola; dry mix; vinegar; pickles; mustard; roasted coffee or dry tea; or a dried herb or dried herb mix;
- (B) has an annual gross income of \$50,000 or less from the sale of food;
- (C) sells the foods produced under Paragraph (A) only directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event; and

(D) delivers products to the consumer at the point of sale or another location designated by the consumer.

Food cart. A mobile food unit which is not motorized and which is propelled only by the operator, and which is designed and intended for the sale of certain prepackaged foods and precooked linked products, and which is serviced from another location.

Heavy food preparation. Any area in which foods are prepared by utilizing a grill, griddle, deep-fat fryer, commercial-type oven, or any similar food preparation equipment; or any area subject to flooding or wet cleaning procedures due to the cutting or processing of meat, poultry, fish, or pork. Heavy food preparation includes, but is not limited to, cafeterias, fast-food restaurants, full-service restaurants, pizza preparation, donut preparation, and meat and fish markets.

Hot water. Water at or above a temperature of 100 degrees Fahrenheit.

Light food preparation. Any area in which foods are prepared without the use of fryers, grills or other similar equipment. Light food preparation is usually limited to the preparation of hot dogs, sandwiches, salads or other similar exposed foods and fountain-type cold drinks.

Mobile food preparation vehicle. A mobile food unit upon which food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

No food preparation. Any area in which foods are provided pre-wrapped, from an approved source, with microwave or convection-type ovens or self-contained frying devices. No food preparation is usually limited to prepackaged sandwiches or similar food, candies and containerized cold drinks.

Perishable. Any food of such type or in such condition as may spoil.

Precooked linked products. Certain products containing any combination of beef, pork, poultry and vegetable protein, wrapped in a shell or membrane, cut into individual links, and thoroughly cooked. Such products may be reheated prior to serving but do not require further cooking.

Section 228.2, relating to definitions, is further amended by deleting the definition of "roadside vendor".

Section 228.33 (a) is amended to read as follows:

At least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program, and who has a valid and current food manager registration issued by the regulatory authority. A food establishment that employs ten (10) or more persons shall operate with a registered food service manager on duty at all times of operation.

Section 228.33 (b) is amended to read as follows:

(1) The food establishment shall, within ten (10) days of the effective date of termination or permanent transfer of any previously registered food service manager, employ another registered food service manager or employ a person currently attending an approved manager certification course.

(2) Registration. The health authority shall issue a food service manager certificate of registration to any person who submits the required application, pays the required fee, and provides evidence of being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(A) Persons successfully completing the accredited program shall be given a written document certifying

their completion of the course by the course provider to be registered with the regulatory authority.

(3) Term, evidence of and transfer of registration.

(A) Unless otherwise revoked by the health authority, a food service manager registration expires on the same expiration date listed on the approved food service manager certificate of registration.

(B) A food service manager certificate of registration is not transferable.

(C) The food service manager certificate of registration issued by the regulatory authority shall be posted in clear view of customers.

(4) Renewal. A food service manager registration may be renewed for a subsequent three-year period if the applicant:

(A) Submits an application for renewal before the expiration of the current food service manager registration;

(B) Pays to the City the required fee; and

(C) Provides evidence that within the six (6) months prior to submitting the application for renewal he or she has attended an accredited food service manager certification or recertification course.

(5) Denial of registration or renewal; revocation of registration. The regulatory authority may refuse to issue or renew a food service manager registration or may revoke a food service manager registration if the applicant or holder:

(A) Has been convicted of interfering with the lawful inspection of a food establishment;

(B) Makes a false statement of material fact in the

application for registration or renewal of registration;

(C) Was employed as a food service manager of an establishment where the establishment's food service permit was suspended two (2) or more times within a twenty-four-month period or where the establishment's food service permit was revoked; or

(D) Attended a course that has been determined by the regulatory authority to not meet the requirements of an accredited program.

(6) Appeal of denial or revocation. The decision of the regulatory authority to deny issuance or renewal of a food service manager registration, or to revoke a food service manager registration, may be appealed by filing a notice of appeal with the regulatory authority within ten (10) days of the denial or revocation. A hearing before the City Council will be provided at the earliest sitting.

(7) Fees. The fee for obtaining or renewing a food service manager registration shall be thirty dollars (\$30.00). The fee for replacing a lost, stolen, or damaged certificate of registration shall be five dollars (\$5.00).

Section 228.33 (c) is deleted in its entirety.

Section 228.33 (d) is amended to read as follows:

A food establishment shall not continue to employ a person as a food handler who does not possess a valid certificate of satisfactory completion of an approved food handler training course within forty-five (45) days after his or her employment as food handler. Persons possessing a valid food service manager registration shall be exempt from this requirement.

Section 228.33 (e) is amended to read as follows:

The food establishment shall maintain on premises a certificate of completion of the food handler training course for each food employee.

Section 228.34 is amended by adding a new section 228.34(16) - (17) to read as follows:

(16) In the event of an emergency occurrence, such as a flood, fire, water outage, power outage or sewage backup, which might result in contamination of food, or which might prevent time/temperature control for safety foods (TCS) from being held at required temperatures, the person in charge shall immediately contact the regulatory authority; and

(17) Each time that a food employee is restricted and/or excluded from the food establishment, the person in charge shall immediately contact the regulatory authority.

Section 228.35 is amended by adding new sections (g) - (h) to read as follows:

(g) No person, while infected with a communicable disease that can be transmitted by food, or who is a carrier of organisms that can cause a communicable disease transmissible by food, or who is afflicted with a boil, an infected wound or an acute respiratory infection, may work in a food establishment in any capacity in which he or she may contaminate food or food-contact surfaces with pathogenic organisms or transmit disease to other persons.

(h) The regulatory authority may require food employees to receive prophylactic vaccination against acute gastrointestinal illnesses, as those vaccines are developed and made readily available.

Section 228.42(a)(2) is amended to read as follows:

A food employee may drink from a non-spillable, closed beverage container if the container is handled in such a manner as to prevent contamination of the employee's hands, the container, exposed food, clean equipment, clean utensils, clean linens, and any unwrapped single-service and single-use articles.

Section 228.66(a) is amended to read as follows:

Food shall be protected from potential contamination at all times, including while being stored, prepared, displayed, served, or transported.

Section 228.68(b)(6) is amended to read as follows:

In a container of water if the water is maintained at a temperature of at least 57 degrees Celsius (135 degrees Fahrenheit) or at or below 5 degrees Celsius (41 degrees Fahrenheit) and the container is cleaned at a frequency specified under 228.114(a)(4)(G) of this title.

Section 228.70(c)(1)(C) is amended to read as follows:

Raw, frozen, shell-on shrimp, lobster, crab, or crawfish.

Section 228.75(i)(1) is amended to read as follows:

Except as specified under paragraph (4) of this subsection if time without temperature control is used as the public health control for a working supply of time/temperature controlled for safety food before cooking, or for ready-to-eat time/temperature controlled for safety food that is displayed or held for sale or service. A written variance from the regulatory authority as specified in 228.243 must be obtained prior to a food establishment using time as a public health control. Written procedures shall be prepared in advance, maintained in the food establishment and made available to the regulatory authority upon request that specify:

- (A) methods of compliance with paragraphs (2)(A)-(C) or (3)(A)-(E) of this subsection; and
- (B) methods of compliance with subsection (d) of this section for food that is prepared, cooked, and refrigerated before time is used as a public health control.

Section 228.105 (a) is amended by adding a new Section

228.105(a)(3) to read as follows:

Metal stem-type thermometers or electronic digital thermometers, numerically scaled from 0° to 220° Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all time/temperature controlled for safety (TCS) foods.

Section 228.107(b)(1) is amended to read as follows:

Except as specified in paragraph (3) of this subsection, a freestanding sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. In all new establishments or establishments with ownership change that have food contact equipment and utensils, a freestanding sink with at least three compartments shall be provided.

Section 228.107 (b)(3)(E)-(F) is deleted in its entirety.

Section 228.107(b) is amended by adding a new Section 228.107(b)(5) to read as follows:

A freestanding, stainless steel, four-compartment sink shall be required in bar areas if all barware is not sanitized in a commercial dishwasher.

Section 228.108(e) is amended to read as follows:

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided and readily available for use.

Section 228.116 is amended to read as follows:

Equipment, food-contact surfaces, and utensils shall be sanitized. Commercial dishwashing machines shall be used if reusable tableware is provided for customers, except that the regulatory authority may allow for manual sanitizing of barware in establishments with only limited reusable barware

usage. Cleaning and sanitizing may be accomplished by spray-type or immersion dishwashing machines or by any other type of machine or device if the device thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair.

Section 228.120(d) is amended to read as follows:

Wet wiping cloths shall be laundered daily and clean cloths shall be used with a fresh solution of cleanser or sanitizer.

Section 228.122(a)(2) is amended to read as follows:

May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry, provided the cloths are used for no other purpose.

Section 228.147(a)(1) is amended to read as follows:

The regulatory authority shall determine the number of handwash sinks that shall be sufficient for the convenient use of all food handlers and ware washers. Handwashing sinks shall be installed in food preparation areas. Additional handwash sinks shall be installed in service areas and/or warewashing areas, if direct access to the handwash sink in the food preparation area is blocked by a wall or equipment or not conveniently located for service area employee utilization. Handwash sinks in food preparation, service, and warewashing areas shall be free standing and equipped with at least four inch wing-style handles.

Section 228.147(c)(1) is amended to read as follows:

At least one service sink or one curbed cleaning facility equipped with a floor drain and hot and cold running water shall be provided and conveniently located for the cleaning of mops and similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

Section 228.147 is amended by adding a new Section 228.147 (e)(3)

to read as follows:

Each backflow prevention device required by this subsection shall be tested annually by a certified backflow prevention assembly tester registered with the City as provided by section 51.76 of the Garland Code of Ordinances. Documentation that the backflow prevention device, required by this subsection, is adequately installed and in proper working order shall be made available at all times for inspection by the regulatory authority.

Section 228.147 is amended by adding a new Section 228.147 (f) to read as follows:

All sinks in the food preparation areas, service areas, and warewashing areas of a food establishment shall be equipped with hot and cold running water.

Section 228.148(a) is amended to read as follows:

Handwashing facilities. A freestanding or wall-mounted handwashing facility shall be located:

Section 228.150(d) is amended to read as follows:

Grease interceptors or traps are required when any foods are prepared using a grill, griddle, deep-fat fryer, commercial-type ovens or any similar food preparation equipment. The capacity of any required grease interceptor/trap shall be determined by the regulatory authority. Grease interceptors or traps shall be located outside the establishment and easily accessible for cleaning.

Section 228.150 is amended by adding a new Section 228.150 (h) to read as follows:

All establishments which utilize a commercial dish machine and produce markets within grocery stores shall install an approved commercial garbage grinder in the preparation or dishwashing area; provided, the regulatory authority may require garbage grinders to be installed in other

establishments, if the lack of such equipment contributes to nuisance conditions.

Section 228.152(d)(2) is amended to read as follows:

Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles. Plastic bags or wet strength paper bags shall be securely tied and closed before disposal. Garbage and refuse bags shall be placed in dumpsters or commercial containers in an unbroken condition.

Section 228.152(f)(1) is amended to read as follows:

Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.

Section 228.152 is amended by adding a new Section 228.152(r) to read as follows:

Receptacles by doors. A waste receptacle shall be placed in close proximity to the door exiting from a toilet room when a handle or knob on the exit door must be grasped by the toilet room occupant.

Section 228.153(a) is amended to read as follows:

Refuse shall be disposed of by an approved commercial service at a frequency that will minimize the development of odor, the attraction of insects and rodents, and other nuisance conditions. The regulatory authority shall have the authority to mandate the frequency of refuse removal if nuisance conditions exist. Recyclables and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

Section 228.153 is amended by adding a new Section 228.153 (c) to read as follows:

When a food establishment shares a dumpster or commercial container with one or more other businesses, the person in charge of the food establishment shall be responsible for correcting any violations of this subsection.

Section 228.170 is added to read as follows:

- (a) Any person desiring to operate a food establishment shall submit plans in accordance with this subchapter. All food establishment shall be constructed of materials which facilitate cleaning, minimize deterioration and prevent vermin harborage. Food establishments shall be maintained in accordance with this chapter.
- (b) When a food establishment is constructed, extensively remodeled, had a change in ownership, significantly altered its menu as determined by the regulatory authority, or when an existing structure is converted for use as a food establishment, properly prepared plans and specification for such construction, remodeling or alteration shall be submitted to the regulatory authority for approval before such work is begun showing the layout, arrangement and construction materials of work areas and the location, size, and types of fixed equipment and facilities.
- (c) The regulatory authority will establish construction standards for each food establishment classification for guidance in the plan review process.

Section 228.171 is amended to read as follows:

- (a) Floor surfaces shall meet the following requirements:
 - (1) Food preparation areas and toilet rooms for food establishments involved in heavy preparation shall incorporate quarry tile, ceramic tile or an equivalent floor covering as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved

with coving material approved by the regulatory authority.

- (2) Food preparation areas and toilet rooms for food establishments involved in light food preparation shall incorporate a commercial-grade sheet vinyl, vinyl composition tile or an equivalent floor covering as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved with coving material approved by the regulatory authority.
- (3) Food preparation areas and toilet rooms for food establishments not involved in the preparation of food shall incorporate sealed concrete, vinyl composition tile or an equivalent as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved with coving material approved by the regulatory authority.
- (4) Time/temperature control for safety (TCS) foods that are no longer sealed in a commercially packaged container shall be stored in walk-in coolers with quarry tile flooring or an equivalent material as approved by the regulatory authority. Food establishments storing only commercially prepackaged foods in walk-in coolers shall install in the cooler sealed concrete or an equivalent material as approved by the regulatory authority. Walk-in freezers shall be sealed concrete or an equivalent material as approved by the regulatory authority.
- (5) All food establishments including food warehouses, with dry storage areas not exposed to excessive moisture shall install sealed concrete, vinyl composition tile or an equivalent material as approved by the regulatory authority. A more moisture-resistant flooring may be required if the dry storage area is subject to moisture.
- (6) Floors shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning. Floors shall be free of

cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any floor which fails to meet the requirements of this section.

(b) Floor drains shall meet the following requirements:

- (1) Floor drains shall be required in food preparation, utensil wash, bar, and service areas of food establishments involved in heavy food preparation, provided floor drains may be waived in existing food service establishments that change ownership. Floors shall be graded to drain.
- (2) Floor drains shall be required in toilet areas of food establishments involved in heavy and light food preparation, including child care facilities. Floor drains may be waived in existing food service establishments that change ownership. Floors shall be graded to drain.

(c) Wall surfaces shall meet the following requirements:

- (1) Food establishments involved in heavy and light preparation shall install wall surfaces of fiberglass reinforced plastic (FRP), ceramic tile, certain types of bricks sealed with light-colored epoxy paint or equivalent materials as approved by the regulatory authority in all food preparation, tableware and utensil washing and service areas. Wall surfaces shall extend eight (8) feet in height or to the ceiling if the ceiling height is less than eight (8) feet.
- (2) The regulatory authority shall require durable and easily cleanable wall surfaces in areas exposed to excessive splash in establishments not involved in food preparation.
- (3) Food establishments involved in heavy and light preparation shall install wall surfaces of fiberglass

reinforced plastic (FRP), ceramic tile, certain types of bricks sealed with light-colored epoxy paint or equivalent materials as approved by the regulatory authority in toilet rooms. Wall surfaces shall extend four (4) feet in height with the remainder consisting of any light-colored, smooth, washable material.

(4) Wall surfaces in toilet facilities of establishments that are not involved in food preparation shall be of any smooth, light-colored, washable material as approved by the regulatory authority.

(5) Wall surfaces in walk-in coolers and walk-in freezers shall be smooth, easily cleanable, and capable of withstanding effects of low temperature and moisture.

(6) Wall surfaces for dry storage areas shall be smooth, light-colored, and washable.

(7) Walls shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning and shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any wall which fails to meet the requirements of this section.

(d) Ceiling surfaces shall meet the following requirements:

(1) Ceilings shall be of light color, smooth, relatively nonabsorbent, durable and easily cleanable. Ceiling materials may be washable drop-in panels, vinyl-coated panels, taped and bedded sheetrock with light-colored epoxy or enamel paint, or an equivalent material as approved by the regulatory authority.

(2) Fibrous acoustical drop-in panels shall be prohibited in all food preparation, tableware and utensil washing area, service area, dry storage, toilet

rooms, mop sink area, and any area that is subject to moisture.

Section 228.172(a) is amended to read as follows:

The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions. These surfaces shall be graded to prevent pooling of water, kept free of litter, and maintained in good repair.

Section 228.173(d) is amended to read as follows:

Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, food service (including salad bar areas), equipment washing, and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and in toilet room areas where urinals or toilet fixtures are located. If carpeting is installed as a floor covering in areas other than those specified in this section, it shall be securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another approved method; and installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or equivalent means.

Section 228.173(e) is amended to read as follows:

Mats and duckboards shall be designed to be removable and be constructed of nonabsorbent, grease-resistant, materials and of such size, design and construction as to facilitate cleaning. Duckboards shall not be used as storage racks.

Section 228.174(c) is amended by adding a new Section 228.174 (c)(3):

Take-out windows and non-overhead-type receiving doors shall

have automatically activated air curtains or other approved mechanical insect control devices. Screen doors shall be self-closing and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than sixteen (16) mesh to the inch.

Section 228.174(d) is amended to read as follows:

Except where a toilet room door is located outside a food establishment and does not open into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room door located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door. Toilet room doors shall be kept closed except during cleaning or maintenance. Toilet rooms shall have exhaust fans.

Sections 228.174 (e)(3) - (e)(5) are deleted in their entirety.

Section 228.174 (k) is deleted in its entirety.

Section 228.174 (l) is deleted in its entirety.

Section 228.174 is amended by adding a new Section 228.174 (m) to read as follows:

Only persons employed by the food establishment or performing tasks essential to the operation of the food establishment shall be allowed to pass through the food preparation, food service, or utensil washing areas.

Section 228.174 is amended by adding a new Section 228.174 (n) to read as follows:

Areas of the establishment in which a preparation cooling table or a residential-style refrigerator are operated shall be mechanically cooled to a maximum ambient room temperature of 86°F. Areas of the establishment in which a commercial-style storage refrigerator or a storage freezer are operated,

which are not opened continuously. Shall be mechanically cooled to a maximum ambient room temperature of 100°F.

Section 228.175 is amended by adding a new Section 228.175 (g) to read as follows:

A toilet room in which the door exiting from the toilet room is equipped with a handle or knob that must be grasped by the toilet room occupant shall be provided with dispensed, individual, disposable towels. Approved toe hooks may be installed on these doors in lieu of providing the individual towels.

Section 228.178 is amended to read as follows:

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create air pollution. Food establishments located within 300 feet of a residentially zoned area may be required to extend or install roof-mounted ventilation systems to a discharge height of seven (7) feet above the effective building height of the food establishment. Specific stack height requirements shall be based on the type and location of the food establishment. The regulatory authority may require more extensive emission controls as needed to prevent air pollution.

Section 228.186 is amended by adding a new Section 228.186 (p) to read as follows:

Food-contact surfaces shall be stainless steel with the exception of certain approved polymer cutting boards. Customer service counters, food packaging areas, takeout windows, and similar areas shall be surfaced with a material that is smooth, nonabsorbent, durable, and easily cleanable as approved by the regulatory authority. Cabinets, tables, or other similar equipment made of wood, particle board, or formica shall not be allowed in areas subject to moisture.

Section 228.186 is amended by adding a new Section 228.186 (q) to read as follows:

Shelving racks in walk-in coolers and walk-in freezers shall be stainless steel, epoxy-coated, noncorrosive metal or equivalent as approved by the regulatory authority. Shelving in dry storage areas shall be light-colored, epoxy- or enamel-painted wood if the storage area is not subject to moisture. Alternative shelving may be required if the storage area becomes subject to moisture.

Section 228.186 is amended by adding a new Section 228.186 (r) to read as follows:

Equipment shall be maintained in a condition that facilitates thorough and rapid cleaning and in working order. The regulatory authority may require certain equipment to be approved by the National Sanitation Foundation (NSF) for its intended use, and shall require repair or replacement of any equipment which fails to meet the requirements of this section.

Section 228.186(o)(4) is added to read as follows:

Notwithstanding anything to the contrary herein, a food establishment with an outdoor patio under its exclusive ownership or control may permit dogs to be present in the outdoor patio area of the food establishment if the food establishment obtains from the regulatory authority a variance waiving the prohibition against permitting the presence of a dog on the premises of the food establishment and complies with the following conditions and standards:

- (A) Except as allowed under 228.186(o)(2) of this title, no dog may be present in the interior of the food establishment or on any playground area designated for children on the premises of the food establishment.
- (B) A separate entrance must be provided from the outside of the food establishment to the outdoor patio

so that a dog has direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog may not be allowed within seven feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

- (C) An approved sign shall be posted at the front or each entrance of the food establishment and at each patio entrance so that it is easily visible to the public. The sign shall state: **"DOG FRIENDLY PATIO: DOG ACCESS TO OUTDOOR PATIO ONLY."**
- (D) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment and must be kept closed when not in use.
- (E) No food preparation may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.
- (F) The outdoor patio must be continuously maintained to be free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with a product approved under the Rules at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), and not less frequently than every 12 hours, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning.
- (G) All table and chair surfaces shall be non-porous, easily cleanable material and cleaned and sanitized with a product approved under the Rules. Spilled food and drink shall be removed from the floor or ground within five minutes of the spill.

- (H) Waste resulting from a dog's bodily functions must be cleaned up immediately with a product approved under the Rules within five minutes of each occurrence of the emission of such waste. All dog waste must be disposed of outside of the food establishment and outside of any patio in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.
- (I) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.
- (J) A dog must be kept on a leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of dogs while providing adequate ventilation for the dog, and must remain under continuous physical control of the owner or other responsible adult while in the outdoor patio area. The dog must be wearing a collar or harness with a current rabies tag attached to it.
- (K) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.
- (L) A dog is not allowed to be tied as a means of restraint other than by a hand-held leash.
- (M) A dog may not have contact with any non-disposable dishes or utensils used for food service or preparation at the food establishment.
- (N) A dog may not be given any food (including, but not limited to, dog food, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.
- (O) The food establishment shall notify and maintain written procedures to notify the Animal Services division of any local rabies control incident as required by 22.07 of the Garland Code of Ordinances, or

any other incident in which two or more dogs are involved in any altercation where they physically come into contact with each other, regardless of whether any of the animals are injured.

(P) The flooring of a patio where dogs are permitted shall be constructed only of sealed concrete or other non-porous, approved material and have no covering that would inhibit thorough cleaning.

(Q) A food establishment shall not permit dogs to be present in the outdoor patio area of the food establishment if:

(i) The regulatory authority determines that a health hazard or nuisance will or has resulted; or

(ii) The food establishment is in violation of this title or state law.

(R) Variance required.

(i) Except as allowed under 228.186(o)(2) of this title, any food establishment that allows dogs on its premises without a variance is in violation of this ordinance. The owner or operator of a food establishment with an outdoor patio under the establishment's exclusive ownership or control may apply to the regulatory authority for a variance waiving the prohibition against dogs on the premises of the food establishment. The variance application shall be on a form provided by the regulatory authority. The application shall be accompanied by a non-refundable variance application fee.

(ii) An inspection must be performed by the regulatory authority to ensure that the food establishment complies with the conditions and standards set forth in 228.165(o)(4) of this title.

- (iii) A variance granted under this subsection is nontransferable. The variance shall expire two (2) years after the date it is granted by the regulatory authority unless it is sooner revoked by the regulatory authority or terminated by the food establishment. A variance may be renewed through the application process set forth in subsection (i) of this section.
- (iv) The regulatory authority shall deny or revoke a variance if:
 - (a) The application for the variance contains a false statement;
 - (b) The food establishment does not hold a valid permit issued under this ordinance;
 - (c) The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;
 - (d) The food establishment failed to pay a required fee at the time it was due under this ordinance;
 - (e) The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this title, or state law.
- (v) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing. The notice must include the reasons for the denial or revocation.
- (vi) A food establishment for which a variance under this subsection is denied or revoked may appeal by requesting a hearing within ten days after service of the notice of the denial or revocation. Such request shall be in writing, shall specify the

reasons why the variance should not be denied or revoked and shall be filed with the regulatory authority. A hearing shall be conducted by the regulatory authority within fifteen days from receipt of the appeal.

Section 228.205 is amended to read as follows:

A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. A food container may not be used to store, transport, or dispense poisonous or toxic materials.

Section 228.221 is deleted in its entirety.

Section 228.222(a) is amended to read as follows:

General. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all time/temperature control for safety (TCS) foods, and when no health hazard will result, such as a children's neighborhood beverage stands, may waive or modify requirements of these rules. The regulatory authority may waive certain requirements in this Subsection for temporary food establishments in which only prepackaged TCS foods are conveyed. A temporary food establishment shall comply with the requirements of this article except as otherwise provided in this section.

Section 228.222(a)(1) is amended to read as follows:

Foods that are not prepared on site or that require extensive preparation or cooking must be prepared at a licensed food establishment. All food products shall be made with ingredients from approved sources.

Section 228.222(a) is amended by adding a new Section 228.222 (a)(3) to read as follows:

TCS foods may be prepared and sold from approved food trailers

and permanent structures on a temporary basis provided that the floors, walls, and ceilings of trailers shall meet or exceed structural requirements as detailed in Subchapter F of this article. Permanent facilities, such as churches and retail stores, utilized as a temporary food establishment shall meet structural requirements as approved by the regulatory authority. NTCS foods and certain precooked linked products may be conveyed on a temporary basis from food trailers, permanent structures, and open-air booths. Other NTCS foods shall be approved or prohibited on a case-by-case basis. All baked goods shall be individually wrapped and protected from contamination, unless a handwash station is provided at the point of sale or conveyance.

Section 228.222(d)(3) is amended to read as follows:

Hot and cold holding equipment. Equipment for cooling and heating food, and holding cold or hot food shall be adequate in number and capacity to provide food temperatures as specified under 228.71 - 228.75 of this title. Mechanical refrigeration capable of maintaining all TCS food products at required temperatures shall be provided in the temporary food establishment. All bulk storage of TCS foods shall be located on site in approved refrigeration equipment. Ice chests shall be allowed for precooked link products and preformed frozen beef patties for events of one-day duration.

Section 228.222(d)(4) is amended to read as follows:

Protection from contamination. Food-contact surfaces of equipment shall be protected from contamination by consumers and other sources. Where necessary to prevent contamination, effective shields for such equipment shall be provided. Stored foods shall be maintained in approved containers with tight-fitting lids to reduce contamination.

Section 228.222(d)(5) is amended to read as follows:

Alternative manual warewashing. A three-compartment sink for washing, rinsing, and sanitizing utensils may be required by the regulatory authority for temporary food establishments

involved with preparation of TCS foods. Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a three-compartment sink, may be used when there are special cleaning needs or constraints and the regulatory authority has approved the use of alternative equipment. Each compartment shall be large enough to immerse the largest piece of equipment that will be used.

Section 228.222(d) is amended by adding a new Section 228.222 (d)(6) to read as follows:

Food contact surfaces. All food contact surfaces shall be constructed of stainless steel or other material approved by the regulatory authority and shall be easily cleanable. A sufficient number of cleaned and sanitized utensils and kitchenware shall be provided to safely prepare and serve food during the event.

Section 228.222(f) is amended to read as follows:

Water. Water from an approved source shall be made available in a temporary food establishment for food preparation, handwashing, and for cleaning and sanitizing utensils and equipment. Hot and cold running water under pressure with a water heater volume sufficient to handle daily handwashing and utensil sanitizing demands shall be provided in a temporary food establishment if TCS foods are prepared onsite and conveyed. Water shall come from approved sources which include: commercially bottled water, closed portable water containers, enclosed vehicular water tanks, or piping, tubing, or hoses connected to an approved source.

Section 228.222 is amended by adding a new Section 228.222 (1) to read as follows:

A temporary food establishment permit shall be obtained prior to the preparation, conveyance, or sale of any food product from a temporary food establishment. The permit shall allow conveyance of food from an approved temporary facility at a single location for no more than five (5) consecutive days. A temporary food establishment permit shall be issued only if

food is to be sold or conveyed in conjunction with an approved event. Each separate event shall require a separate temporary food establishment permit. An event may occur at a given site only once during a thirty-day period. The Director of Health may grant temporary permits at a given site on a more frequent basis for charitable events and for events held on the site of property owned by the operator of the temporary food establishment. The Director of Health may extend the time a temporary food establishment operates at a single location when the temporary food establishment is operating in conjunction with a special event that is permit under section 30.214 of this Code. An application for a temporary food establishment permit shall be filed at least 48 hours prior to the scheduled event.

Section 228.222 is amended by adding a new Section 228.222 (m) to read as follows:

Condiments. All condiments shall be served in single-serving containers or from bottles with manual pump dispensers. No open condiment containers shall be permitted.

Section 228.222 is amended by adding a new Section 228.222 (n) to read as follows:

Vent hoods. Ventilation hoods with grease intercepting filters shall be installed in temporary food service facilities if grills or deep fryers of any type are utilized inside a structure.

Section 228.222 is amended by adding a new Section 228.222 (o) to read as follows:

Garbage and refuse disposal. Waste receptacle with liners and tight-fitting lids shall be provided, convenient, adequate in number and capacity, and properly maintained to minimize vermin, odors, and litter.

Section 228.222 is amended by adding a new Section 228.222 (p) to read as follows:

Toilet facilities. Toilet facilities shall be available and readily accessible, but in no case shall toilet facilities be more than three hundred (300) feet from food preparation areas.

Section 228.222 is amended by adding a new Section 228.222 (q) to read as follows:

Produce sales by growers. Owners or lessees of land zoned for agriculture purposes who grow produce on said land may sell such produce upon the lot or lots on which the produce is grown. Produce may be sold by the grower provided a permit is obtained from the regulatory authority. Such permits are good for a one year term and must be renewed on an annual basis.

Section 228.222 is amended by adding a new Section 228.222 (r) to read as follows:

Inspections. The regulatory authority may inspect temporary food establishments at any reasonable time. Prior to a scheduled event, the regulatory authority may require that temporary food establishments be inspected and be in compliance with all applicable sections of this article.

Section 228.222 is amended by adding a new Section 228.222 (s) to read as follows:

Personnel practices. Temporary food establishment employees shall abide by all applicable sections of this article with respect to personal hygiene and sanitary food handling practices. Temporary food employees shall be exempt from the manager registration requirement of this article.

Section 228.226 is added and titled Concession Facilities.

(a) Concession facilities are seasonal and often operate more days per year than temporary food establishments but significantly fewer days per year than permanent food establishments. The degree of regulation of a concession facility shall depend upon the type of foods (TCS or NTCS)

conveyed, the volume of food conveyed, and the number of days of operation per year.

- (b) A concession permit shall be obtained from the regulatory authority under the requirements set in 228.247 prior to operation. The person in charge of a concession facility shall ensure that all necessary inspections are arranged prior to opening for the season.
- (c) Unless otherwise provided, concession facilities shall comply with all requirements of this article. The regulatory authority may waive certain requirements, which are deemed unnecessary for protection of public health.
- (d) The regulatory authority may require that a concession facility have at least one person on-site who holds an accredited food handler certification or other higher certification.

Section 228.227 is added and titled Itinerant Vendors and Delivery of Food.

(a) Application of section. This section is applicable to the sale or conveyance of food by itinerant vendors, persons delivering previously ordered food, and all other similar sales and conveyance of food, other than catering trucks and mobile food preparation vehicles.

(b) Itinerant sales or conveyance of food.

(1) It shall be unlawful for any person to sell or convey time/temperature control for safety (TCS) foods or perishable foods (such as produce) from house to house or place to place in any zone within the City.

(2) Any person who sells or conveys non-time/temperature control for safety (NTCS) foods, commercially prepackaged foods from house to house or place to place within the City shall obtain a permit from the regulatory authority.

(3) Any person desiring to sell or convey from house

to house or place to place NTCS foods which are not commercially prepackaged shall apply for a permit. The regulatory authority shall approve or deny the application based on the type of NTCS food intended for sale or conveyance.

(4) Any foods sold or conveyed from house to house or place to place shall meet all applicable requirements of this article including but not limited to approved source, temperature control, labeling, and protection from contamination.

(5) Any person who sells or conveys food from house to house or place to place shall comply with all provisions of this Code relating to itinerant vendors including, without limitation, article V and article IX of chapter 26.

(c) Delivery of food.

(1) This section pertains to persons who deliver food which has been ordered by individuals or businesses in the City from an itinerant vendor, through United States mail, by telephone or other means of communication.

(2) Any person who delivers food previously ordered to the person who placed the order shall comply with all applicable sections of this article including but not limited to approved source, temperature control, labeling, and protection from contamination.

(3) Vehicles used for the delivery of food previously ordered to the person who placed the order shall meet the following minimum criteria:

(A) The vehicle shall comply with all state rules for motor vehicles.

(B) The vehicle shall be equipped and maintained to adequately store food during transportation to prevent contamination, adulteration or damage to the food or to containers in which the food is stored.

(C) The vehicle shall be maintained in a clean and sanitary condition.

(4) Any person who delivers food previously ordered to the person who placed the order shall not be required to obtain a permit from the regulatory authority; provided, that:

(A) The regulatory authority shall have the authority to inspect the vehicle, food products, and any invoices and bills of lading at any reasonable time and shall have all authorities defined in Subchapter I.

(B) The person delivering food shall comply with all applicable sections of this article.

(5) Any person who solicits orders for food from house to house or place to place shall comply with all provisions of Chapter 26 of this Code.

Section 228.228 is added and titled Food Carts.

(a) General. This section shall apply to the sale and conveyance of food from food carts.

(b) Permit. All food carts shall have a valid food service permit of the proper classification issued by the regulatory authority under the requirements set in Subchapter I and such permit shall be posted and affixed to the food cart in plain view of customers. Food carts shall be operated in compliance with all applicable sections of this article.

(c) Construction. Food carts shall meet all construction and operation requirements of the National Sanitation Foundation (NSF) Standard 59 for food carts and shall be approved by the regulatory authority.

(d) Food items.

(1) Sale of prepackaged foods. Prepackaged foods

may be sold from food carts provided that they are commercially packaged, from an approved source, wholesome, unadulterated, and properly labeled.

(2) Sale of foods prepared at the food cart. Certain TCS and NTCS foods may be prepared at and sold from food carts. TCS foods shall be limited to precooked linked products, canned chili, and canned cheese toppings. NTCS foods shall be those requiring minimal preparation, and including fruits, vegetables, chips, candy, cotton candy, soft drinks, baked goods, nachos, shaved ice, frozen novelties, pretzels, and ice.

(e) Condiments. All condiments shall be served in single-serving containers or from approved, commercially filled, dispenser-type containers.

(f) Food handling.

(1) Food carts approved only for the sale of prepackaged food shall not be utilized for non-prepackaged food service or preparation.

(2) Food carts approved for the preparation or service of food shall be equipped with an integral handwash sink, which has hot and cold running water. A supply of soap and paper towels shall be maintained on the cart at all times.

(3) The handling of food shall be minimized through the use of tongs, forks, or similar utensils.

(4) All foods shall be served on single service articles. No bare hand contact with ready-to-eat foods shall be allowed.

(5) Food carts serving hot TCS food shall be equipped with fuel-fired or electric hot-holding devices capable of maintaining foods at one hundred thirty-five (135) degrees Fahrenheit or above. Food carts serving or storing cold TCS foods shall have insulated storage compartments capable of maintaining

refrigerated foods at forty-one (41) degrees Fahrenheit or less and frozen foods at zero (0) degrees Fahrenheit or less. All foods shall be from an approved source, unadulterated and shall be maintained at required temperatures.

(6) All food contact surfaces on food carts shall be stainless steel, polymer cutting boards, or equivalent as approved by the regulatory authority.

(7) TCS foods which have been heated or kept refrigerated on a food cart shall, if not sold in one day, be discarded at the end of each day, provided that unopened canned foods and properly maintained frozen foods may be returned to the central preparation facility for reuse.

(8) All food carts shall be provided with accurate thermometers in each cold-holding and hot-holding compartment. The food cart operator shall possess an accurate, probe-type thermometer for monitoring food temperatures as required by 228.105(a)(3).

(g) Waste retention. All liquid wastes resulting from the operation of a food cart shall be collected and stored in an integral waste holding tank and disposed of in a sanitary sewer. Sizing and capacity of waste holding tank must meet NSF Standard 59 requirements.

(h) Solid waste. The permit holder shall provide a plastic waste receptacle with integral lid for collection of all solid waste produced by the food cart. Plastic waste receptacle liners shall be used at all times.

(i) Storage and equipment. All foods sold or conveyed from a food cart shall be stored or displayed only within or on the food cart. Additional equipment, other than the operator's chair, shall be prohibited.

(j) Central Preparation Facility. All food carts shall operate from a base of operation, such as a central food preparation or other fixed food establishment permitted by

a local regulatory authority. The base of operation shall meet all the requirements of this article, including 228.229. The permit holder shall remove the food cart from its point of use daily and transport it to the base of operation for all supplies and for all cleaning and servicing operations. The central preparation facility or other fixed food establishment used as a base of operation shall be constructed and operated in compliance with this article. All food carts shall be stored at the central preparation facility when not in use.

(k) Cleaning and sanitizing.

(1) Food carts serving TCS foods shall be cleaned and sanitized daily at the base of operation. Carts selling prepackaged or NTCS foods shall be washed and rinsed daily at the base of operation.

(2) Food carts shall be maintained in a clean, sanitary condition at all times of operation and while stored at the base of operation.

(l) Personnel.

(1) All persons operating food carts where food is prepared or non-prepackaged food is served shall possess valid food handler certificates.

(2) Food cart operators shall comply with all personal hygiene and related employee responsibilities required by this article.

(3) Food carts shall be located within 300 feet of approved restroom facilities. Operators shall have written permission from the restroom owner or person-in-charge to utilize the restroom facilities.

(m) Permits. Permits for food carts shall be obtained as provided in this article. Only those food items listed on the permit may be sold. Food cart fees shall be as follows:

- (1) Food carts operated from food establishments permitted in the City: \$50.00/year for each cart.
- (2) All other food carts for each cart: \$100.00/year.
- (n) Approved location. Food carts shall be operated only:
 - (1) On private property, with written permission from the property owner; and
 - (2) In City parks, with written permission from the Park Board. Food cart operators shall provide to the regulatory authority site plans or building floor plans upon which the actual location of the cart will be specified. Operation of a food cart at a location other than the location specified on the site plans or floor plan for that cart shall be an offense.
- (o) Prohibitions. No person may convey food from a food cart in any area zoned residential or upon any private property or adjoining streets containing multifamily dwellings.

Section 228.229 is added and titled Catering Trucks.

- (a) All catering trucks shall have a valid food service permit and such permit shall be maintained on the catering truck at all times. The application for permit shall bear the name of the company, the driver, the vehicle number, and the vehicle registration plate number (license plate). The permit shall remain valid for one year.
- (b) Initial Permitting Inspection. The regulatory authority shall require a catering truck to come to a location designated by the authority. The catering truck must be totally operable at the time of inspection, including but not limited to handwash/warewash facilities, refrigeration, and wastewater disposal. Required documentation to have available includes:
 - (1) Central Preparation Facility Authorization. A signed letter of authorization is required, to verify

facility use, if the Central Preparation Facility is not owned by the catering truck operator.

(2) Central Preparation Facility Inspection Report. A copy of the most current health inspection of the central preparation facility must be maintained on the catering truck at all times.

(3) Servicing Area Authorization. A signed letter of authorization may be required by the regulatory authority to verify service area use, if the servicing area is not owned by the catering truck operator.

(4) Menu of all food items to be sold.

(c) Permits may be suspended temporarily by the regulatory authority for repeated failure of the permit holder to comply with the requirements of this article. For serious or repeated violations of any of the requirements of this article, or for interference with the regulatory authority in the performance of his or her duties, the permit may be permanently revoked after notice and an opportunity for a hearing has been provided by the regulatory authority.

(d) A catering truck may remain at one location no more than one (1) hour per stop, and no more than three (3) total hours at the same location in any twenty-four hour period.

(d) Food storage areas. All food storage areas in catering trucks shall be maintained free of rust and corrosion, clean and protected from contamination.

(e) Food items. All foods conveyed from catering trucks shall be prepackaged, single-serving size, and unadulterated. All foods shall be obtained from an approved source. TCS foods shall be wrapped and sealed, labeled as to type of food, location of preparation, and date of preparation. All TCS food shall be disposed of at the end of each day of operation.

(f) Condiments. All condiments shall be served in single-service containers or approved, commercially filled,

dispenser-type containers. Bulk dispensers, bottles or other containers shall not be permitted for conveyance of any condiment.

(g) Food handling. No direct food handling of any type shall be permitted by catering truck operators or customers. It shall be unlawful for catering truck operators to sell, dispense or convey ice in any manner, except from an approved automatic ice dispenser. Soft drinks and tea shall be conveyed only in prepackaged cans, bottles or cartons. Hot coffee may be conveyed from bulk dispensers into single-service cups. All hot TCS food shall be maintained at one hundred thirty-five (135) degrees Fahrenheit or above in a mechanical warming oven. All cold TCS food shall be maintained at forty-one (41) degrees Fahrenheit or below. Equipment for holding hot and cold foods shall be sufficient in number and capacity to provide food temperatures as specified under Subchapter C of this rule.

(h) Water Tank. A catering truck water tank inlet shall be:

- (1) 19.1 mm (3/4 inch) in inner diameter or less; and
- (2) Provided with a hose connection of a size or type that will prevent use for any other service.
- (3) Fill hose and water holding tank shall be labeled as "Potable Water."

(i) Waste retention. If liquid waste results from operation of a catering truck, the waste shall be stored in a permanently installed retention tank that is of at least fifteen (15) percent larger capacity than the water supply tank and sloped to a drain that is one (1) inch in inner diameter or greater, equipped with a shut-off valve. Liquid waste shall not be discharged from the retention tank when the catering truck is in motion. All connections on the vehicle for servicing catering truck waste disposal facilities shall be of a different size or type than those used for supplying potable water to the catering truck. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water

system. A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner. Sewage and other liquid wastes shall be removed from a catering truck at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(j) Water and wastewater exemption. A catering truck that conveys food requiring no water for operations and no hand contact with food is exempt from these rules pertaining to water and wastewater if the required cleaning and sanitization equipment exist at its central preparation facility.

(k) Single service articles. Catering trucks shall provide only single service articles for use by the consumer.

(l) Central Preparation Facility. All catering trucks shall operate from a central preparation facility or other fixed food service establishment permitted to sell food at the wholesale level and shall report at least daily to this location for all cleaning and servicing operations. The CPF or other fixed establishment used as a base of operation for catering trucks shall be constructed and operated in compliance with the requirements of these rules (pertaining to Physical Facilities – Subchapter F).

(m) Servicing Area and Operations.

(1) Protection.

(A) A catering truck servicing area shall include at least overhead protection for any supplying, cleaning, or servicing operation. Those areas used for the loading of water and/or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

(B) Within the servicing area, the location provided for the flushing and drainage of liquid wastes shall be separate from the location provided

for potable water servicing and for the loading and unloading of food and related supplies.

(C) A servicing area will not be required where only packaged food is placed on the catering truck or where the catering trucks do not contain waste retention tanks.

(D) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

(E) Potable water servicing equipment shall be installed in the servicing area according to the Plumbing Code and shall be stored and handled in a way that protects the water and equipment from contamination.

(2) Construction exemption. The construction of the walls and ceilings of the servicing area is exempted from the provisions of 228.173(a) of this title (related to Physical Facilities).

Section 228.230 is added and titled Mobile Food Preparation Vehicles.

(a) Permit. All mobile food preparation vehicles shall have a valid food service permit issued by the regulatory authority as required by Subchapter I. The permit shall be affixed inside or on the mobile food preparation vehicle in plain view of customers. Fees shall be \$450.00 a year for each vehicle.

(b) Plans required. Any person desiring to obtain a permit to operate a mobile food preparation vehicle shall submit properly prepared plans for the vehicle which identify vehicle size, equipment, equipment schedule, finish schedule, plumbing, electrical service, and lighting.

- (c) Construction. All surfaces of equipment located in the food preparation area of the vehicle shall be constructed of stainless steel or similar noncorrosive, easily cleanable material. All equipment shall be installed in such a manner as to ensure cleanability. Outer openings shall be sealed to protect against the entrance of vermin and dust. Floor surfaces shall be constructed of aluminum diamond plating, stainless steel, metal with baked-on enamel finish, or an equivalent material as approved by the regulatory authority. Walls and ceilings shall be constructed of stainless steel, metal with baked-on enamel finish, fiberglass-reinforced plastic (FRP), or an equivalent material as approved by the regulatory authority. The installation of exposed utility lines and pipes on the floor is prohibited.
- (d) Readily Movable. Any alteration, removal, attachments, additions, placement or change in, under, or upon the mobile food preparation vehicle that would prevent or otherwise reduce ready mobility is prohibited. The regulatory authority may require a mobile food preparation vehicle to come, on an annual basis or as often as required, to a location designed by the regulatory authority as proof that the mobile food preparation vehicle is readily movable.
- (e) Initial Permitting Inspection. Upon request from the regulatory authority, a mobile food preparation vehicle shall come to a location designated by the authority. The catering truck must be totally operable at the time of inspection, including but not limited to handwash/warewash facilities, refrigeration, and wastewater disposal. Required documentation to have available includes:
- (1) Certified Food Manager Certification.
 - (2) Central Preparation Facility Authorization. If the Central Preparation Facility is not owned by the catering truck operator, a signed letter of authorization from the owner of the Central

Preparation Facility showing that the catering truck is permitted to use the facility is required.

- (3) Central Preparation Facility Inspection Report. A copy of the most current health inspection of the central preparation facility must be maintained on the catering truck at all times.
- (4) Servicing Area Authorization. If the servicing area is not owned by the catering truck operator, a signed letter of authorization from the owner of the service area granting permission for the catering truck to operate at that location is required.
- (5) Menu of all food items to be sold.
- (f) Equipment shall be located in a way that facilitates cleaning the mobile food preparation vehicle and that prevents food contamination. Floor-mounted equipment shall be sealed to the floor or elevated on legs to provide at least a six-inch clearance between floor and equipment. Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces by clothing or personal contact.
- (g) Mobile food preparation vehicles shall provide only single service articles for use by the consumer.
- (h) Each mobile food preparation vehicle shall have equipment for cooling and heating food, and holding cold and hot food, and be sufficient in number and capacity to provide food temperatures as specified under Subchapter C of this rule. The regulatory authority may require additional refrigeration methods as needed to supplement

existing refrigeration units to assure required temperatures can be met.

- (i) A three-compartment sink shall be provided for washing, rinsing, and sanitizing equipment and utensils as specified under 228.107(b)(1) of this title. Each compartment shall be of sufficient size to immerse the largest equipment and utensils as specified under 228.107(b)(2) of this title.
- (j) A handwash sink shall be available for convenient use by employees and properly provisioned in accordance with 228.175(b)-(c) of this title. This sink shall be separate from the three-compartment sink.
- (k) Ventilation hoods with grease-intercepting filters shall be provided over all fryers, grills, and griddles.
- (l) A minimum of fifty (50) footcandles of light shall be provided in all areas of food preparation and utensil washing. All lights shall be equipped with protective shields.
- (m) Adequate electrical power shall be provided to operate all refrigeration, hot-holding, water supply, lighting, and ventilation systems on the vehicle at all times.
- (n) Water supply. Each mobile food preparation vehicle shall have a potable water system under pressure. The system shall meet the requirements of 228.149(f) and be of a capacity sufficient to furnish enough hot and cold water for all food preparation, utensil washing, sanitization and handwashing activities. A water heater shall be provided which is capable of producing 100° F water.
- (o) Water Tank. A mobile food preparation vehicle water tank inlet shall be:
 - (1) 19.1 mm (3/4 inch) in inner diameter or less; and
 - (2) Provided with a hose connection of a size or type that will prevent use for any other service.

- (3) Fill hose and water holding tank shall be labeled as "Potable Water."
- (p) Liquid waste. If liquid waste results from operation of a mobile food preparation vehicles, the waste shall be stored in a permanently installed retention tank. A leak-proof sewage holding tank in a mobile food preparation vehicle shall be:
- (1) sized at least 15% larger in capacity than the water supply tank; and
 - (2) sloped to drain that is one (1) inch in inner diameter or greater, equipped with a shut-off valve.
- (q) All connections on the vehicle for servicing the mobile food preparation vehicle waste disposal facilities shall be of a different size or type than those used for supplying potable water to the vehicle. Discharge liquid waste shall not be discharged from the retention tank while the vehicle is in motion. A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner. Sewage and other liquid wastes shall be removed from the mobile food preparation vehicle at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created. Liquid waste holding tank shall be labeled as "waste water." If a toilet is provided, wastewater from the toilet shall be held separately from other wastewater.
- (r) Service openings. Service openings shall be limited to 225 square inches each. Such openings shall be spaced a minimum of 18 inches apart. Service openings shall be provided with screen doors, which shall be closed except during actual service of food to customers. All food preparation and service operations shall be conducted inside the vehicle.
- (s) A schedule of all stops, including location and time of day, shall be submitted at the time of application. The

operator shall submit updated schedules to the regulatory authority whenever any changes to the schedule occur.

(t) Each mobile food preparation vehicle shall be operated by a registered manager. Any additional food handlers in the vehicle shall possess valid food handler's certificates.

(u) Central Preparation Facility. All mobile food preparation vehicles shall operate from a central preparation facility or other fixed food service establishment permitted to sell food at the wholesale level and shall report at least daily to this location for all cleaning and servicing operations. The CPF or other fixed establishment used as a base of operation for catering trucks shall be constructed and operated in compliance with the requirements of these rules (pertaining to Physical Facilities - Subchapter F).

(v) Servicing Area and Operations.

(1) Protection.

(A) A mobile food preparation vehicle servicing area shall include at least overhead protection for any supplying, cleaning, or servicing operation. Those areas used for the loading of water and/or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

(B) Within the servicing area, the location provided for the flushing and drainage of liquid wastes shall be separate from the location provided for potable water servicing and for the loading and unloading of food and related supplies.

(C) A servicing area will not be required where only packaged food is placed on the catering truck or where the catering trucks do not contain waste retention tanks.

(D) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

(E) Potable water servicing equipment shall be installed in the servicing area according to the Plumbing Code and shall be stored and handled in a way that protects the water and equipment from contamination.

(2) Construction exemption. The construction of the walls and ceilings of the servicing area is exempted from the provisions of 228.173(a) of this title (related to Physical Facilities).

(w) Other requirements.

(1) Mobile food preparation vehicles shall operate only where the written permission of the property owner or authorized agent of the property owner has been granted to allow the operation of the mobile food preparation vehicle and to allow lawful inspection of the vehicle while on the premises. A copy of such written permission shall be maintained in the vehicle at all times.

(2) All invoices and receipts for food supplies shall be maintained on the vehicle for inspection by the regulatory authority.

Section 228.231 is added and titled Mobile Ice Cream Sales Prohibited.

No person shall sell, offer for sale, or convey for a consideration any ice cream, shaved ice or frozen novelty food product from a motor vehicle at any place within the City, other than from a mobile food preparation vehicle as provided in 228.230.

Section 228.247 is amended to read as follows and title changed to Permits:

(a) Generally. No person shall sell, offer to sell, convey food, or otherwise operate a food establishment within the City without having first obtained a permit issued by the regulatory authority. Permits shall not be transferable from one person to another person or place. A permit issued under this article gives only the person in charge to whom the permit is issued the authority to operate the food establishment identified on the permit. As a lawful condition to the operation of the establishment, the regulatory authority may impose in the permit such additional requirements relating to the operation of the food establishment as the regulatory authority determines necessary to protect the public health and safety.

(b) Application. A person desiring to operate a food establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include: the applicant's full name and post office address and whether such applicant is an individual, corporation, partnership, or other business entity. If the applicant is a partnership, the names of the partners, together with their addresses shall be included. The application shall also include the location and type of the proposed food establishment, the signature of the applicant or applicants, or agents and such other information as may be required by the regulatory authority. If the application is for a temporary food establishment, it shall also include the beginning and ending dates of the proposed operation.

(c) Permit fees.

(1) Permanent, fixed food service establishments:

(A) Heavy preparation: \$450.00/year

(B) Light preparation: \$350.00/year

(C) No preparation: \$250.00/year

(D) Child care center: \$250.00/year

- (E) Public school cafeterias: \$350.00/year
 - (2) Temporary food establishment: \$50.00/event
 - (3) Catering trucks: \$200.00/truck/year
 - (4) Mobile food preparation vehicles: \$450.00/year
 - (5) Concession facilities: \$50.00/year
 - (6) Itinerant vendors: \$100.00/year
 - (7) No fee shall be charges to any food establishment owned and operated by a governmental agency or institution of purely public charity or church; however, such establishments shall comply with all other requirements of this article.
 - (8) Any permanent, fixed food establishment whose inspection score(s) during the previous fiscal year (October 1 - September 30) rank in the highest five (5) percentile (arithmetic average) within its classification (as classified by the regulatory authority), shall be exempt from a permit fee for its next annual permit. This provision shall not apply to establishments that began operation or whose ownership or establishment name has changed during the fiscal year in which average scores are calculated.
- (d) Duration. Permits granted under the provision of this section, unless otherwise specified, shall remain in force for one year from the date of issuance unless suspended or revoked for cause. Permits shall remain the property of the City.
- (e) Denial of permit. The regulatory authority may deny issuance of a permit to applicants who have not met the standards of this article; intentionally provided false information to the regulatory authority; filed incomplete

permit applications; operated a food establishment that has had the permit revoked within the previous three years. Any person who has had their permit application denied, shall, upon written request to the regulatory authority, be afforded a hearing before the City Council as soon as practical, but not later than thirty (30) days from the denial.

- (f) Suspension of permits. Permits may be suspended temporarily by the regulatory authority for repeated failure of the permit holder to comply with the requirements of this article. Whenever a permit holder or operator has failed to correct a violation after receiving two (2) written notices for the violation, the regulatory authority may suspend the permit. The permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder. Notwithstanding the other provisions of this article, whenever the regulatory authority finds unsanitary or other conditions in the operation of a food service establishment which constitute a substantial hazard to the public health, a written notice may be issued to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken. If necessary, such order may state that the permit is immediately suspended and all food service operations are to be immediately discontinued. If the permit is suspended, a "Closed by Order of Garland Health Department" sign shall be placed on the entrance to the food establishment in plain view of the public. No person may remove, cover, alter, deface, or otherwise make unreadable said sign. Any person to whom such an order is issued shall comply immediately therewith, but, upon written request to the regulatory authority, shall be afforded a hearing before the City Council as soon as practical, but not later than thirty (30) days from the denial.

- (g) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit. Within ten (10) days following the receipt of a request, which shall include a statement signed by the applicant that in his or her opinion the conditions causing suspension of the permit have been corrected, the regulatory authority shall make a reinspection. If it is discovered upon reinspection that the applicant is complying with the requirements of this article, the permit shall be reinstated.
- (h) Revocation of permits. A permit may be permanently revoked for serious or repeated violations of any of the requirements of this article or for interference with the regulatory authority in the performance of his or her duties. Prior to such action, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for a hearing contesting the decision is filed within such five (5) day period with the regulatory authority. A permit shall be suspended pending its revocation or pending any hearing contesting the proposed revocation.
- (i) Hearings. The hearings provided for in this section shall be conducted by the City Council at a time and place designated by them. The City Council shall make a finding and shall either sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished upon request to the permit holder by the regulatory authority.
- (j) Future operations prohibited. Any person whose food establishment permit has been revoked shall for a period of three years be prohibited from operating, being employed within, or in any way being associated with the operation of any food establishment located:

(1) At the address of the food establishment whose permit was revoked; or

(2) At any other food establishment within the City.

Section 228.249 is amended by adding a new Section 228.249 (d) to read as follows:

(d) Frequency. The regulatory authority shall inspect each food establishment located in the City, or its police jurisdiction, and shall make as many inspections and reinspections as are necessary for the enforcement of this article.

Section 228.250(c) is amended to read as follows:

Consent to inspection. Application for and operation of a food establishment inside the City constitutes consent for the regulatory authority to inspect the food establishment to determine compliance with this article. It shall constitute an offense for any person to hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a food establishment by the regulatory authority. Such actions may also constitute reason for suspension or revocation of permit. In addition, it shall also constitute an offense if any person willfully provides false information to the regulatory authority as it relates to enforcement of the provisions of this article.

Section 228.250 (d) is deleted in its entirety.

Section 228.251 is amended to read as follows:

(a) Report of inspections. Whenever a routine inspection is made of a food establishment, the findings shall be recorded on the inspection report form approved by the regulatory authority. The original of the inspection report shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. The rating score of the

establishment shall be the total of the weighted point value for all violations, subtracted from one hundred (100). The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(b) Correction of violations. The routine inspection report and/or the associated notice of violation form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) If an imminent health hazard exists, including, but not limited to, a complete lack of sanitization or refrigeration; or if a sewage backup threatens contamination of food or equipment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
- (2) All violations of three- four- or five-point-weighted items shall be corrected within a time specified by the regulatory authority, but in no event shall such time period exceed forty-eight (48) hours.
- (3) All items weighted less than three points shall be corrected within a time specified by the regulatory authority, but in no event shall such time period be longer than the date of the next routine inspection.
- (4) When the rating score of the establishment is less than sixty (60), the regulatory authority may immediately suspend the permit. If the permit is not immediately suspended, the establishment shall complete corrective action on all identified violations within a maximum of forty-eight (48) hours.
- (5) In the case of temporary food establishments, all violations shall be corrected within a time specified by the regulatory authority, but in no event shall such

time period exceed twenty-four (24) hours. If violations are not corrected within the compliance time specified by the regulatory authority, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.

Section 228.251(f) is deleted in its entirety.

Section 228.253 is deleted in its entirety.

Section 228.254 is deleted in its entirety.

Section 228.255 is amended to read as follows:

Examination and condemnation of food. Agents of the regulatory authority may examine and collect samples of food as necessary for the enforcement of this article. The regulatory authority shall, upon written notice to the owner or person in charge specifying the reason therefore, destroy or place under detention any food which the regulatory authority has probable cause to believe is adulterated or misbranded. Food which has been detained shall be suitably stored. It shall be unlawful for any person to remove or alter a detention order, notice or tag placed on food by the regulatory authority, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, used or destroyed without permission of the regulatory authority except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in subsection 228.247(i) of this section, the regulatory authority may vacate the detention order, or may direct the owner or person in charge of the establishment to destroy the food.

Section 228.258 is added to read as follows:

Food service establishments outside jurisdiction of the regulatory authority. Food from food establishments outside the jurisdiction of the regulatory authority of the City may be sold within the City if such food service establishments conform to the provisions of this article or to substantially

equivalent provisions. To determine the extent of compliance with such provisions, the regulatory authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

Section 3

Sections 22.26 through Section 22.40 of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby repealed. Sections 22.26 through Section 22.40 shall be reserved for future use.

Section 4

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended in this Ordinance.

Section 6

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 7

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

[Note: Due to the extensive changes made by the foregoing amendments, a black-lined comparison is not feasible. All of Article II, Chapter 22 has been affected by these amendments. Formatting changes may occur during codification of the foregoing amendments]

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH" AND CHAPTER 26, "POLICE-MISCELLANEOUS PROVISIONS AND OFFENSES" OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS BY DELETING, AS PREEMPTED, SECTION 22.59 AND SECTION 26.03 THEREOF; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 22.59 of Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby repealed. Section 22.59 shall be reserved for future use.

Section 2

That Section 26.03 of Chapter 26, "Police - Miscellaneous Provisions and Offenses" of the Code of Ordinances of the City of Garland, Texas, is hereby repealed. Section 26.03 shall be reserved for future use.

Section 3

That Chapters 22 and 26 of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 4

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

Sec. 22.59 ~~[Reserved] Sale or possession of e-cigarettes to or by minors~~

~~(A) Sale of e-cigarettes to persons younger than 18 years of age prohibited.~~

~~(1) A person commits an offense if the person, with criminal negligence:~~

~~(a) Sells, gives, or causes to be sold or given an e-cigarette to someone who is younger than 18 years of age; or~~

~~(b) Sells, gives, or causes to be sold or given an e-cigarette to another person who intends to deliver it to someone who is younger than 18 years of age.~~

~~(2) If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which e-cigarettes are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.~~

~~(3) It is a defense to prosecution under subsection (1)(a) above that the person to whom the e-cigarette was sold or given presented to the defendant apparently valid proof of identification.~~

~~(4) A proof of identification satisfies the requirements of subsection (3) above if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 18 years of age or older, and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport, or an identification card issued by a state or the federal government.~~

~~(B) Possession, purchase, consumption, or use of e-cigarettes by minors prohibited.~~

~~(1) An individual who is younger than 18 years of age commits an offense if the individual:~~

~~(a) Possesses, purchases, consumes, or uses an e-cigarette; or~~

~~(b) Falsely represents himself or herself to be 18 years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the~~

~~individual's own age in order to obtain possession of, purchase, or receive an e-cigarette.~~

~~(2) — It is an exception to the application of this section that the individual younger than 18 years of age possessed the e-cigarette in the presence of:~~

~~(a) — An adult parent, a legal guardian, or a spouse of the individual; or~~

~~(b) — An employer of the individual, if possession or receipt of e-cigarettes is required in the performance of the employee's duties as an employee.~~

~~(c) — Affirmative defense. It is an affirmative defense to prosecution under this section that the device was prescribed by a licensed medical provider for inhaling medicine in the form of a vapor or gas.~~

Sec. 26.03 [Reserved] ~~Alcoholic beverages consumption prohibited in public places; defenses~~

~~(A) — It shall be unlawful for any person to consume or drink an alcoholic beverage in any public place.~~

~~(B) — It is a defense to prosecution for an offense under this section that, at the time of consuming or drinking an alcoholic beverage, the person:~~

~~(1) — Was on a premises operated by a person possessing a private club registration permit from the state alcoholic beverage commission issued for such premises;~~

~~(2) — Was on a premises he either owns or has a greater right of possession than the public;~~

~~(3) — Was on the premises of another and had the effective consent of the owner of the premises; or~~

~~(4) — Was on a common area of any multifamily dwelling unit.~~

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 22.57 OF ARTICLE IV, "SMOKING" OF CHAPTER 22, "HEALTH", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 22.57 of Article IV, "Smoking" of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 22.57 Use of tobacco products or e-cigarettes in City facilities is prohibited

(A) A person commits an offense if the person smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within or on any building, parking garage, or vehicle owned, operated or managed by the City.

(B) A person commits an offense if the person, while on public property, smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within 50 feet of an entrance or exit of a building, parking garage, or a facility owned, operated, or managed by the City.

(C) It is a defense to prosecution under this Section 22.57 that the person engaged in smoking, consuming, or using a tobacco product or e-cigarette in violation of above subsections (A) and (B), is in an area officially designated as a smoking area by the City Manager."

Section 2

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 3

That Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 4

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

Sec. 22.57 Use of tobacco products or e-cigarettes in City facilities is prohibited

(A) A person commits an offense if the person smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within or on any building, parking garage, or vehicle owned, operated or managed by the City.

(B) A person commits an offense if the person, while on public property, smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within 50 feet of an entrance or exit of a building, parking garage, or a facility owned, operated, or managed by the City.

(C) It is a defense to prosecution under this Section 22.57 that the person engaged in smoking, consuming, or using a tobacco product or e-cigarette in violation of above subsections (A) and (B), is in an area officially designated as a smoking area by the City Manager.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 26, "POLICE-MISCELLANEOUS PROVISIONS AND OFFENSES," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Article III of Chapter 26, "Police-Miscellaneous Provisions and Offenses," of the Code of Ordinances of the City of Garland, Texas, is hereby amended by changing the title of the article from "Loitering Restrictions for Sex Offenders" to "Residence and Loitering Restrictions for Sex Offenders".

Section 2

That Chapter 26, "Police-Miscellaneous Provisions and Offenses," of the Code of Ordinances of the City of Garland, Texas, is hereby amended by adding a new section, Sec. 26.34, to read as follows:

"Sec. 26.34 Restrictions on Sex Offenders Residing in the Same Dwelling Unit

(A) In this section the term "dwelling" has the meaning provided by Sec. 6.03 of the Garland Development Code.

(B) A sex offender commits an offense if the person resides, either temporarily or permanently, in the same dwelling with another sex offender.

(C) The owner, operator, or person in control of a dwelling commits an offense if he or she, either personally or through an employee or agent, knowingly allows or with criminal negligence suffers a sex offender to reside, either temporarily or permanently, in the dwelling with another sex offender.

(D) It is a defense to prosecution under Subsection (B) or (C) that:

(1) all sex offenders residing in the dwelling were related to each other by one or any combination of the following:

(a) blood;

- (b) marriage;
 - (c) adoption; or
 - (d) foster care under a placement program authorized by the Texas Department of Family and Protective Services pursuant to Chapter 264, Subchapter B of the Texas Family Code, as amended;
- (2) the violation for which the sex offender was required to register was the only sex crime on the sex offender's record and, at the time of that violation, the victim in the case was:
 - (a) between 14 and 17 years of age;
 - (b) a willing participant in the sexual activity; and
 - (c) not more than 4 years younger than the registered sex offender;
- (3) the dwelling was or is lawfully established and lawfully operating as:
 - (a) a group home, as defined in Section 6.03 of the Garland Development Code, as amended; or
 - (b) an institute for special education that holds a valid certificate of occupancy specifically for that use and that operates a program approved by the State of Texas for the housing, rehabilitation, and training of criminal offenders."

Section 3

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 4

That Chapter 26, "Police-Miscellaneous Provisions and Offenses," of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 5

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 6

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2016.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

ORDINANCE NO.

AN ORDINANCE REPEALING SEC. 10.16 OF CHAPTER 10, "ADMINISTRATION" OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS;; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Sec. 10.16 of Chapter 10, "Administration" of the Code of Ordinances of the City of Garland, Texas is hereby repealed.

Section 2

That Chapter 10, "Administration" of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 3

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 4

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the ____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

~~Sec. 10.16 — City vehicles to be used for official business only~~

~~(A) — All motor vehicles owned by the City shall be used only for the official business of the City and it shall be unlawful for any employee of the City to transport or carry in any vehicle owned by the City any person not an employee of the City except when such transporting or carrying is done in furtherance of the official business of the City.~~

~~(B) — Any employee of the City convicted of a violation of this section shall be deemed guilty of a misdemeanor and punished as prescribed in section 10.05 of this Code.~~

ORDINANCE NO.

AN ORDINANCE AMENDING VARIOUS SECTIONS OF ARTICLE V, "INSURANCE" OF CHAPTER 41, "PERSONNEL", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 41.70 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by amending, respectively, the definitions of "Plan Claim" and "Program Liability Coverage" to read as follows:

"Plan Claim means any liability claim against a plan member arising out of or relating to acts or omissions occurring in the ordinary course and scope of a plan member's duties, powers and functions for the City."

"Program Liability Coverage means the liability insurance policies, if any, that the City has purchased from an insurance provider pursuant to Section 41.100 of this article."

Section 2

That Section 41.73(A) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) The "Risk Claims Board" is hereby created."

Section 3

That Section 41.74 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 41.74 Claims Board duties to administer program

The Claims Board has the power and responsibility to administer the program on the City's behalf in accordance with the program article, subject to the superior authority of the City Council.

In the course of carrying out this responsibility, the Claims Board shall interpret and apply the provisions of the program article, applicable resolutions adopted by the City Council, and the provisions of the City Charter relating to the program article. The Claims Board may interpret and apply the program article to special circumstances as defined in section 41.70. The Claims Board may establish rules governing the conduct of its affairs and take such actions necessary to enable it to properly and effectively exercise the powers and perform the duties and functions delegated to it under the program article."

Section 4

That Section 41.81 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 41.81 Payment of Plan Claims

(A) Subject to subsections (B) and (C) of this section, the City shall defend and indemnify a plan member from a Plan Claim, but only if either:

(1) the Plan Claim would be covered by the City's applicable Program Liability Coverage but for the self-insured retention. In other words, the City's agreement to cover any Plan Claim under this Section 41.81 (A)(1) is co-extensive with and no greater than the coverage afforded under the insuring agreement and exclusions of the City's applicable Program Liability Coverage. Any Plan Claim that would be excluded per the terms of the City's Program Liability Coverage is likewise excluded from coverage under this Section 41.81(A) (1); or

(2) the Claims Board determines that it is in the City's best interests to cover the Plan Claim (regardless of whether the Plan Claim would be covered under the terms of the City's applicable Program Liability Coverage). In determining whether it is in the City's best interests to cover a Plan Claim under this discretionary provision, the Claims Board may consider, among other factors, the following:

(a) the interests of the City, its citizens and the public;

(b) the nature of the claim;

(c) the nature of the conduct alleged;

(d) the size of the claim; and

(e) any applicable federal, state or local laws or regulations.

(B) To be entitled to any coverage by the City for any Plan Claim, the plan member must:

(1) Notify the Risk and Insurance Manager, in writing, immediately and as soon as practical of any pending legal proceedings begun against the plan member;

(2) Cooperate fully with the Claims Board and any designated attorney in the investigation, negotiation, defense or settlement of any claim or suit giving rise to a Plan Claim and in enforcing any right of contribution or indemnity against an individual or entity who or which may be liable to the City because of the payment by the City of a Plan Claim;

(3) Assist fully in the conduct of any hearing or trial held in connection with a Plan Claim, including (but not limited to) attending the hearing or trial, securing and giving evidence, and obtaining the attendance of witnesses;

(4) Not, except upon advice of the City Attorney or when questioned by a police officer at the scene of an accident, give any oral or written statement or enter into any stipulation or agreement concerning a claim or suit resulting in a Plan Claim;

(5) Not, except at the plan member's own expense, voluntarily make any claim or suit resulting in a Plan Claim without the consent of the Claims Board;

(6) Deliver to the Claims Board, promptly upon receipt, any demand, summons, notice, or other process received by the plan member, in connection with any claim or suit that may result in a Plan Claim;

(7) Comply with the claims administration procedures of the Claims Board;

(8) Consent to legal counsel designated by the Claims Board; and

(9) Perform the duties and comply with the requirements

imposed on the plan member by the program article.

The plan member's strict adherence to each of the above requirements is a condition precedent to coverage by the City. Failure to comply with any of the above requirements will constitute grounds for denial and/or immediate revocation of coverage by the City.

(C) The following claims made against a plan member are excluded actions, unless the City determines to provide coverage under Section 41.81(A)(2):

- (1) Any claim brought against a plan member by the City;
- (2) Any claim that would be excluded per the terms of the City's applicable Program Liability Coverage;
- (3) Any claim for liability assumed by a plan member under a contract, unless the contract is entered into at the request and with the approval of the City;
- (4) Any claim for damages in which the cause of action or any part of it arises out of or is related to conduct, acts, or omissions of a plan member which are not within the specific course and scope of the plan member's employment and official duties."

Section 5

That Section 41.84(B) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) If the Claims Board, upon appeal, upholds the denial of coverage, the plan member, within ten days from the date the Claims Board makes its determination, may appeal that determination to a court of competent jurisdiction. An appeal from the Claims Board shall be determined on the basis of the substantial evidence rule."

Section 6

That Section 41.84(C) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(C) If the court rules in favor of the plan member, the City shall provide such coverage to the plan member and shall

reimburse the plan member for the reasonable coverage determination expenses."

Section 7

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 8

That Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, amended, shall be and remain in full force and effect save and except as amended in this Ordinance.

Section 9

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 10

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2016.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

Section 1

That Section 41.70 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by amending, respectively, the definitions of "Plan Claim" and "Program Liability Coverage" to read as follows:

"Plan Claim means any÷

- (1) ~~Auto liability claim.~~
- (2) ~~General liability claim.~~
- (3) ~~Worker's compensation claim.~~
- (4) ~~Personal injury claim.~~
- (5) ~~Advertising injury claim.~~
- (6) ~~Public official and employees liability.~~

liability claim against a plan member arising out of or relating to acts or omissions occurring in the ordinary course and scope of a Plan member's duties, powers and functions for the City."

Program Liability Coverage means the liability insurance policies, if any, that the City has purchased from an insurance provider pursuant to Section 41.100 of this article.

Section 2

That Section 41.73(A) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(A) The "Risk Claims Board" is hereby created."

Section 3

That Section 41.74 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 41.74 Claims Board duties to administer program

The Claims Board has the power and responsibility to administer the program on the City's behalf in accordance with the program

article, subject to the superior authority of the City Council. In the course of carrying out this responsibility, the Claims Board shall interpret and apply the provisions of the program article, applicable resolutions adopted by the City Council, and the provisions of the City Charter relating to the program article. The Claims Board may interpret and apply the program article to special circumstances as defined in section 41.70. The Claims Board may establish rules governing the conduct of its affairs and take such actions necessary to enable it to properly and effectively exercise the powers and perform the duties and functions delegated to it under the program article."

Section 4

That Section 41.81 of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 41.81 Payment of Plan Claims

(A) Subject to subsections (B) and (C) of this section, the City shall ~~provide coverage for~~ defend and indemnify a Plan member from a Plan Claim, but only if either:

(2) the Plan Claim would be covered by the City's applicable Program Liability Coverage but for the self-insured retention. In other words, the City's agreement to cover any Plan Claim under this Section 41.81 (A)(1) is co-extensive with and no greater than the coverage afforded under the insuring agreement and exclusions of the City's applicable Program Liability Coverage. Any Plan Claim that would be excluded per the terms of the City's Program Liability Coverage is likewise excluded from coverage under this Section 41.81(A) (1); or

(2) the Claims Board determines that it is in the City's best interests to cover the Plan Claim (regardless of whether the Plan Claim would be covered under the terms of the City's applicable Program Liability Coverage). In determining whether it is in the City's best interests to cover a Plan Claim under this discretionary provision, the Claims Board may consider, among other factors, the following:

(a) the interests of the City, its citizens and the public;

- (b) the nature of the claim;
- (c) the nature of the conduct alleged;
- (d) the size of the claim; and
- (e) any applicable federal, state or local laws or regulations.

(B) To be entitled to any coverage by the City for any ~~plan claim~~ Plan Claim, a the plan member must:

- (1) Notify the Risk and Insurance Manager, in writing, immediately and as soon as practical of any pending legal proceedings begun against the plan member;
- (2) Cooperate fully with the Claims Board and any designated attorney in the investigation, negotiation, defense or settlement of any claim or suit giving rise to a ~~plan-claim~~ Plan Claim and in enforcing any right of contribution or indemnity against an individual or entity who or which may be liable to the City because of the payment by the City of a Plan Claim;
- (3) Assist fully in the conduct of any hearing or trial held in connection with a ~~plan-claim~~ Plan Claim, including (but not limited to) attending the hearing or trial, securing and giving evidence, and obtaining the attendance of witnesses;
- (4) Not, except upon advice of the City Attorney or when questioned by a police officer at the scene of an accident, give any oral or written statement or enter into any stipulation or agreement concerning a claim or suit resulting in a ~~plan-claim~~ Plan Claim;
- (5) Not, except at the plan member's own expense, voluntarily make any claim or suit resulting in a ~~plan-claim~~ Plan Claim without the consent of the Claims Board;
- (6) Deliver to the Claims Board, promptly upon receipt, any demand, summons, notice, or other process received by the plan member, in connection with any claim or suit that may result in a ~~plan-claim~~ Plan Claim;
- (7) Comply with the claims administration procedures of the Claims Board; ~~and~~
- (8) Consent to legal counsel designated by the Claims Board; and

~~(8)~~(9) Perform the duties and comply with the requirements imposed on the Plan member by the program article.

The Plan member's strict adherence to each of the above requirements is a condition precedent to coverage by the City. Failure to comply with any of the above requirements will constitute grounds for denial and/or immediate revocation of coverage by the City.

(C) The following claims made against a plan member are excluded actions, unless the City determines to provide coverage under Section 41.81(A)(2):

- (1) Any claim brought against a plan member by the City;
- (2) Any claim that would be excluded per the terms of the City's applicable Program Liability Coverage;
- ~~(3) Any claim resulting from, arising out of, or related to acts of a plan member not authorized by the City Charter or activities not directly performed in the course and scope of a plan member's office or employment;~~
- ~~(3) Any claim resulting from, arising out of, or related to acts based upon or attributable to a plan member gaining in fact any profit or advantage to which they were not legally entitled, including remuneration paid in violation of law;~~
- ~~(4) Any claims brought about or contributed to by criminal activity, fraud, or dishonesty of a plan member; however, notwithstanding the foregoing, a plan member shall be protected under the terms of this section as to any claims upon which suit may be brought by reason of any alleged fraud or dishonesty on the part of any plan member, unless a judgment or other final adjudication thereof adverse to such plan member shall establish that acts of active or deliberate dishonesty or fraud committed by such plan member were material to the cause of action so adjudicated;~~
- ~~(5) Any claim which is insured by any valid insurance policy or policies or which is deemed uninsurable under the law;~~

- ~~(6) Any claim based upon or attributable to the rendering or failure to render any opinion, treatment, consultation or service if such opinion, treatment, consultation or service was rendered or failed to have been rendered when such plan member was engaged in any activity for which they received compensation from any source other than the City or were gratuitously engaged other than by specific direction of the City;~~
- ~~(7) Any claim arising either while a plan member is operating a City vehicle or equipment with no authority to operate the vehicle or equipment, or while a plan member is operating a City vehicle in the course of personal or private business;~~
- ~~(8) Any claim resulting from an action where a plan member joins or attempts to join in a suit against the City from which a claim against the City for benefits under the plan may arise;~~
- ~~(9)~~(3) Any claim for liability assumed by a plan member under a contract, unless the contract is entered into at the request and with the approval of the City;
- ~~(10)~~(4) Any claim for damages in which the cause of action or any part of it arises out of or is related to conduct, acts, or omissions of a plan member which are not within the specific course and scope of the plan member's employment and official duties.

Section 5

That Section 41.84(B) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

(B) If the Claims Board, upon appeal, upholds the denial of coverage, the plan member, within ten ~~(10)~~ days from the date the Claims Board makes its determination, may appeal that determination to a court of competent jurisdiction. An appeal from the Claims Board shall be determined on the basis of the substantial evidence rule.

Section 6

That Section 41.84(C) of Chapter 41, "Personnel", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to

read as follows:

(C) If the court rules in favor of the plan member, the City shall provide such coverage to the plan member and shall reimburse the Plan member for the reasonable coverage determination expenses.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 51, "GENERAL UTILITY PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Sec. 51.09(D) of Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(D) The Building Official shall give the holder of the certificate of occupancy for the premises not less than seventy-two hours written notice of suspension or revocation. The holder of the certificate of occupancy may appeal the proposed suspension or revocation by filing a written notice of appeal with the Building Official not less than one business day prior to the date specified as the date of proposed suspension or revocation of the certificate of occupancy. The appeal shall be promptly heard and determined by the Building and Fire Codes Board. A timely and proper appeal shall stay the suspension or revocation of the certificate of occupancy until the final disposition of the matter is made by the Building and Fire Codes Board."

Section 2

That Sec. 51.09(E) of Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"(E) For the purposes of this section, a premises is being used to conduct a criminal enterprise if the premises:

(1) Is, or is threatened to be used by a person or persons engaged in organized criminal activity prohibited under Section 71.02 of the Texas Penal Code;

(2) Has been, within a twelve-month period, the site of three or more violations of federal, state or local law in which arrests were made or convictions (including deferred adjudication, probation or administrative sanctions imposed in lieu of or in conjunction with criminal penalty) were obtained, and that were aided, abetted,

caused, counseled, commanded, induced, procured or encouraged by the owner or occupant of the premises; or

(3) Is knowingly used or made available for use, operated, leased, rented, or occupied for the purpose of selling, offering to sell, manufacturing, distributing, storing or using a controlled substance, drug paraphernalia or other contraband."

Section 3

That Sec. 51.09 of Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by adding a subsection (H) to read as follows:

"(H) Notwithstanding any other provision of this Code, a person who is within the fourth degree by consanguinity or affinity of the holder of a certificate of occupancy, whose certificate of occupancy is suspended or revoked pursuant to Section 51.09(B) may not, for a period of one hundred eighty days from the date of the suspension or revocation, apply for a certificate of occupancy in connection with an establishment the certificate of occupancy for which was suspended or revoked. In this subsection, "person" includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock."

Section 4

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 6

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 7

That this Ordinance shall be and become effective immediately upon
ordinances-utility and CO termination revision 2017

and after its passage and approval.

PASSED AND APPROVED this the ____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Published:

(D) The Building Official shall give the holder of the certificate of occupancy for the premises not less than seventy-two hours written notice of suspension or revocation. The holder of the certificate of occupancy may appeal the proposed suspension or revocation by filing a written notice of appeal with the Building Official not less than one business day prior to the date specified as the date of proposed suspension or revocation of the certificate of occupancy. The appeal shall be promptly heard and determined by the Building and Fire Codes Board. A timely and proper appeal shall stay the suspension or revocation of the certificate of occupancy until the final disposition of the matter is made by the Building and Fire Codes Board.

* * *

(E) For the purposes of this section, a premises is being used to conduct a criminal enterprise if the premises ~~is, or is threatened to be:~~

(1) Is, or is threatened to be used by a person or persons engaged in organized criminal activity prohibited under Section 71.02 of the Texas Penal Code;

(2) ~~The premises~~ Has been, within a twelve-month period, the site of three or more violations of federal, state or local law in which arrests were made or convictions (including deferred adjudication, probation or administrative sanctions imposed in lieu of or in conjunction with criminal penalty) were obtained, and that were aided, abetted, caused, counseled, commanded, induced, procured or encouraged by the owner or occupant of the premises; or

(3) Is knowingly used or made available for use, operated, leased, rented, or occupied for the purpose of selling, offering to sell, manufacturing, distributing, storing or using a controlled substance, drug paraphernalia or other contraband.

* * *

(H) Notwithstanding any other provision of this Code, a person who is within the fourth degree by consanguinity or affinity of the holder of a certificate of occupancy, whose certificate of occupancy is suspended or revoked pursuant to Section 51.09(B) may not, for a period of one hundred eighty days from the date of the suspension or revocation, apply for a certificate of occupancy in connection with an establishment the certificate of occupancy for which was suspended or revoked. In this subsection, "person" includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of

the corporate stock.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 33, "TRANSPORTATION", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS, A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 33.76(D) of Chapter 26, "Transportation", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by addition to read as follows:

"(D) No person shall skate, skateboard or rollerblade on the premises of City Hall, in or on the parking facilities at 5th Street Crossing or City Hall, or on any ramp, loading dock or protrusion abutting or connected to City Hall, 5th Street Crossing, the Duckworth Building, the Garland Utility Payment Drive-Thru or the Granville Arts Center."

Section 2

That Section 33.76(F) of Chapter 26, "Transportation", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by addition to read as follows:

"(F) A peace officer or other city official designated to enforce parking laws and regulations may take into custody any vehicle found in violation of subsections (A), (B), or (C).

(1) Prior to taking a violating vehicle under subsections (A) and (B), a notice of violation shall be securely attached to the vehicle for a minimum of twenty-four hours, specifying the violation, the date, the approximate time, and the location of the violation. However, if a violating vehicle has previously received a citation under above subsections (A), (B), or (C), or notice pursuant to this subsection, then the violating vehicle may be taken

into custody without further notice for any subsequent violations.

(2) If the City takes into custody a motor vehicle that has been determined to be in violation of the Code, the City shall notify not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the twentieth day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under section 683.032 of the Texas Transportation Code and, if the vehicle is a commercial motor vehicle impounded under section 644.153(q) of the Texas Transportation Code, the delinquent administrative penalty and costs. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

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

Section 3

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 4

That Chapter 33, "Transportation", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 5

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 6

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the ____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Sec. 33.76 General regulations

(A) A vehicle is unlawfully parked if the vehicle is not entirely contained within the limits of a single parking space designated by surface markings for that parking space.

(B) For head-in parking, a vehicle is unlawfully parked if the vehicle is parked more than eighteen inches from the front end of the parking space in which it is parked.

(C) A vehicle is unlawfully parked if the vehicle is parked within a City parking space that is marked by sign or surface markings as "reserved" or similarly designated for official use unless the vehicle is owned or operated by the City or an authorized City official or authorized employee of the City.

(D) No person shall skate, skateboard or rollerblade on the premises of City Hall, in or on the parking facility facilities at 5th Street Crossing or City Hall, or on any ramp, loading dock or protrusion abutting or connected to City Hall, 5th Street Crossing, the Duckworth Building, the Garland Utility Payment Drive-Thru or the Granville Arts Center.

(E) The provisions of Chapter 681, Tex. Trans. Code govern privileged parking in parking spaces designated for persons with physical disabilities.

(F) A peace officer or other city official designated to enforce parking laws and regulations may take into custody any vehicle found in violation of subsections (A), (B), or (C).

(1) Prior to taking a violating vehicle under subsections (A) and (B), a notice of violation shall be securely attached to the vehicle for a minimum of twenty-four hours, specifying the violation, the date, the approximate time, and the location of the violation. However, if a violating vehicle has previously received a citation under above subsections (A), (B), or (C), or a notice pursuant to this subsection, then the violating vehicle may be taken into custody without further notice for any subsequent violations.

(2) If the City takes into custody a motor vehicle that has been determined to be in violation of the Code, the City shall notify not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the twentieth day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under section 683.032 of the Texas Transportation Code and, if the vehicle is a commercial motor vehicle impounded under section 644.153(q) of the Texas Transportation Code, the delinquent administrative penalty and costs. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

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**GARLAND
CITY COUNCIL ITEM SUMMARY SHEET**

City Council Work Session Agenda

Work Session Item 2. a.

Meeting Date: January 17, 2017

Item Title: Preview of 2017 Proposed CIP

Submitted By: Ron Young, Budget Director

Summary of Request/Problem

Staff will provide an overview of the 2017 Proposed Capital Improvement Program (CIP), which will be formally presented by the City Manager at the January 17, 2017, Regular City Council Meeting.

Schedule for Review and Approval:

Jan. 17	Tues.	Preview of 2017 Proposed CIP to Council
Jan. 17	Tues.	City Manager Presentation of 2017 Proposed CIP to Council
Jan. 28	Sat.	Budget Work Session – 9:00 A.M.
Feb. 6	Mon.	Council Work Session – Tentative (if needed)
Feb. 7	Tues.	Public Hearing on 2017 CIP – 7:00 P.M.
Feb. 20	Mon.	Council Work Session – Deliberations
Feb. 21	Tues.	Public Hearing and Adoption of 2017 CIP – 7:00 P.M.

As shown in the schedule above, Budget Sessions for review of the proposed capital plan will take place on Saturday, January 28, Monday, February 6, and Monday, February 20, 2017. A Public Hearing on the CIP will be held on February 7 and February 21, 2017, with final adoption proposed to take place on February 21, 2017.

Recommendation/Action Requested and Justification

Information only.



GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

Work Session Item 2. b.

Meeting Date: January 17, 2017

Item Title: City Council Vision and Plan of Action to Reduce the Use of Debt Funding

Submitted By: Rene Dowl, City Secretary

Summary of Request/Problem

At the request of Council Member Jim Cahill and Mayor Douglas Athas, Council is requested to review the City Council Vision and Plan of Action to Reduce the Use of Debt Funding that was presented and discussed at the April 18, 2016 Work Session and adopted by consensus (7 ayes, 2 nays) of the Council. Council Member Jim Cahill is requesting Council to re-affirm their commitment to this vision and plan of action or take action to change or revoke it.

Recommendation/Action Requested and Justification

Council discussion.

Attachments

Vision and Plan of Action

City Council Vision and Plan of Action to Reduce the Use of Debt Funding

Background

During the January 26, 2015 City Council Budget Retreat, through a collaborative exercise, the Council assigned a very high priority to reducing debt funding. This item was later assigned to the Administrative Services Committee to develop a plan of action. The Committee spent the last year deliberating on this issue. The result was a proposal to revise the current City Council Financial Policy. The proposed policy revisions were presented to Council during a special meeting of the City Council on February 22, 2016. After that presentation, it became apparent that there was some reluctance by the City Council to make changes to the Financial Policy.

The Committee feels strongly that if any sustainable change is to be made in this area it will require a broad consensus of the Council. Knowing that all of the proposed action items could be implemented under the framework of the current Financial Policy, the Committee decided to propose that the City Council adopt a vision and high level plan of action. It is our hope that this will establish a clear vision for the City staff regarding the City Council's desire to reduce the use of debt funding and will provide general direction on how Council wishes to begin this long-term process.

Vision

Maximize the use of the City's modest resources by reducing the use of debt funding and its associated interest costs.

Plan of Action

(1) Phase 1 - Reduce interest expense associated with debt funding

- (a) Gradually reduce the terms (years to pay back) on new debt issues in order to lower interest rates, pay off debt faster, and reduce the overall interest expense
- (b) Move annual recurring capital items currently being funded by debt to the Annual Operating Budget as cash resources become available. Following are some examples of potential projects:
 - i) Annual recurring purchases of large quantities of low dollar items (ex: library books)
 - ii) Annual recurring investment in city infrastructure (ex: \$15M per year for streets and alleys)
- (c) Review with Council each year tax supported debt as a % of the assessed value of the tax base. This ratio should trend downward as the use of debt funding is reduced over time.

(2) Phase 2 - Set aside reserves (savings) as cash resources become available in order to fund future capital items

As revenue growth allows, establish reserves to fund future capital items. This will smooth out the impact on the Annual Operating Budget from one year to the next and will ensure that cash funds are available when they are needed. For example:

- (a) Replacement of capital items with short-term useful lives (ex: Firewheel golf carts, equipment)

(3) Maintain budget flexibility through changing economic conditions

- (a) During years of high economic growth, additional recurring revenues may be used to increase replacement and general reserves (savings), pay down debt, enhance services, or provide taxpayer relief.
- (b) During years of low or negative economic growth, ongoing revenue shortfalls may be addressed by tightening cost controls on operating expenses, deferring capital purchases, reducing services, and utilizing reserves.



GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

Work Session Item 2. c.

Meeting Date: January 17, 2017

Item Title: Street Funding Resolution

Summary of Request/Problem

At the request of Council Member Lori Barnett Dodson and Council Member Rich Aubin, Council is requested to consider adopting a resolution that establishes a funding and operation policy for repairs of streets and alleys. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the January 17, 2017 Regular Meeting.

Recommendation/Action Requested and Justification

Council discussion.

Attachments

Street Funding Resolution

RESOLUTION NO.

A RESOLUTION ESTABLISHING A STREET FUNDING POLICY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Garland acknowledges that its street and transportation system is vital to its citizens, its various commercial enterprises, and its commitment to emergency response;

WHEREAS, the City of Garland has over 2,600 lane miles of streets and alleys within its borders;

WHEREAS, the City of Garland has implemented effective design and construction practices that produce well-constructed streets and alleys;

WHEREAS, the City of Garland has implemented several operational practices that seek to preserve and extend the effective lifetime of streets and alleys;

WHEREAS, the City of Garland has undertaken various operational and capital processes in order to address street repair needs in the most cost-effective manner;

WHEREAS, Council recognizes the need for a long range business plan for transportation/street repairs

WHEREAS, the City Council desires to implement a long term funding strategy to keep its street and transportation system reliable and in good repair and intends by this Resolution to establish a clear policy as to the funding of its commitment to that strategy;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That the City Council establishes the following policy regarding the funding of street repairs and maintenance:

- The City Council is committed to a minimum spending of \$20.0 million per year on street repairs, maintenance, and appropriate upgrades;

- The City Manager shall direct the Street Department to endeavor to efficiently and economically implement all funded, programmed repairs within the funded fiscal year;
- The City Council agrees that "one time funds" above \$1.0 million that are available in the Operating Budget at the end of each fiscal year will be dedicated to street improvements; the first \$1.0 million in "one time funds" may be used for other capital items in order to avoid the issuance of debt;
- The City Council commits to a goal of obtaining a minimum 85 PCI and will strive to reach a 90 PCI; and
- The City Council will, with each annual budget, consider the then-current and anticipated interest rates, construction cost inflation, and other market conditions in order to determine the most financially responsible funding mechanism (cash funded/debt funded) to obtain the goals set forth in this Resolution.

Section 2

That this Resolution shall be and become effective immediately upon and after its adoption and approval.

PASSED AND APPROVED this the ____ day of _____, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary



**GARLAND
CITY COUNCIL ITEM SUMMARY SHEET**

City Council Work Session Agenda

Work Session Item 2. d.

Meeting Date: January 17, 2017

Item Title: Transportation Update

Submitted By: Paul Luedtke, Transportation Director

Summary of Request/Problem

The Transportation Director will provide a monthly briefing on the activities related to funding the Strategic Transportation Initiatives of the City of Garland.

Recommendation/Action Requested and Justification

Information only.

Attachments

Transportation Update January 2017

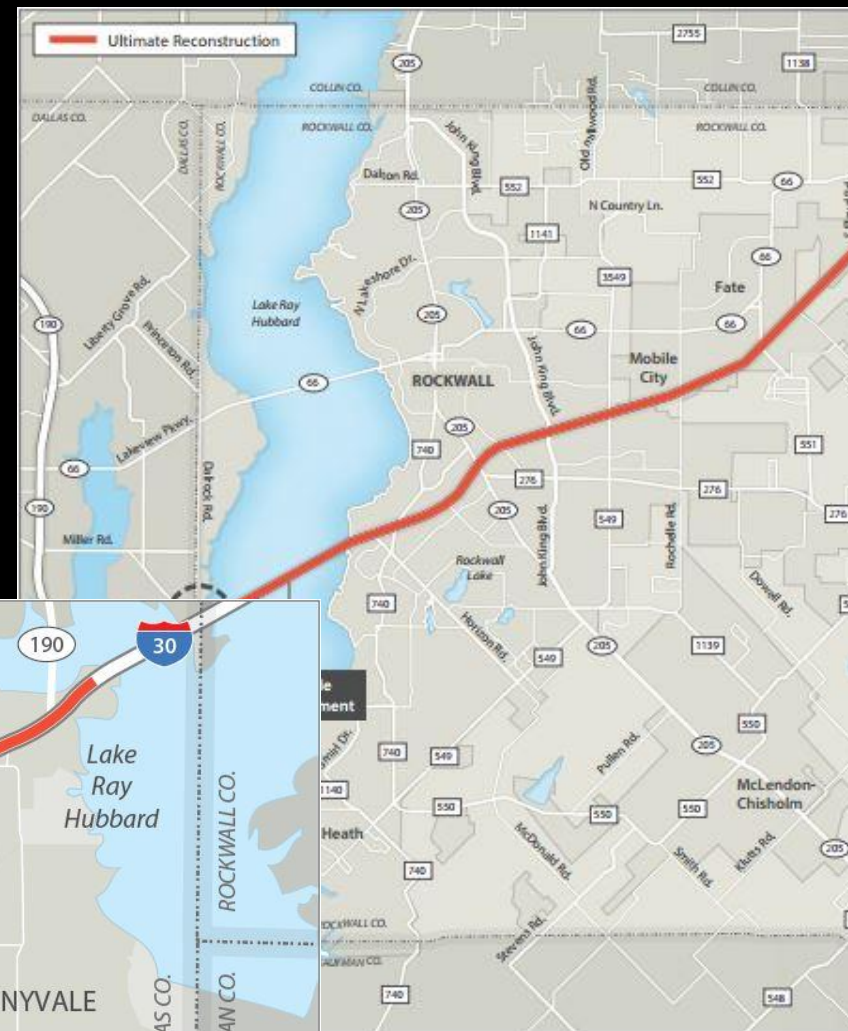
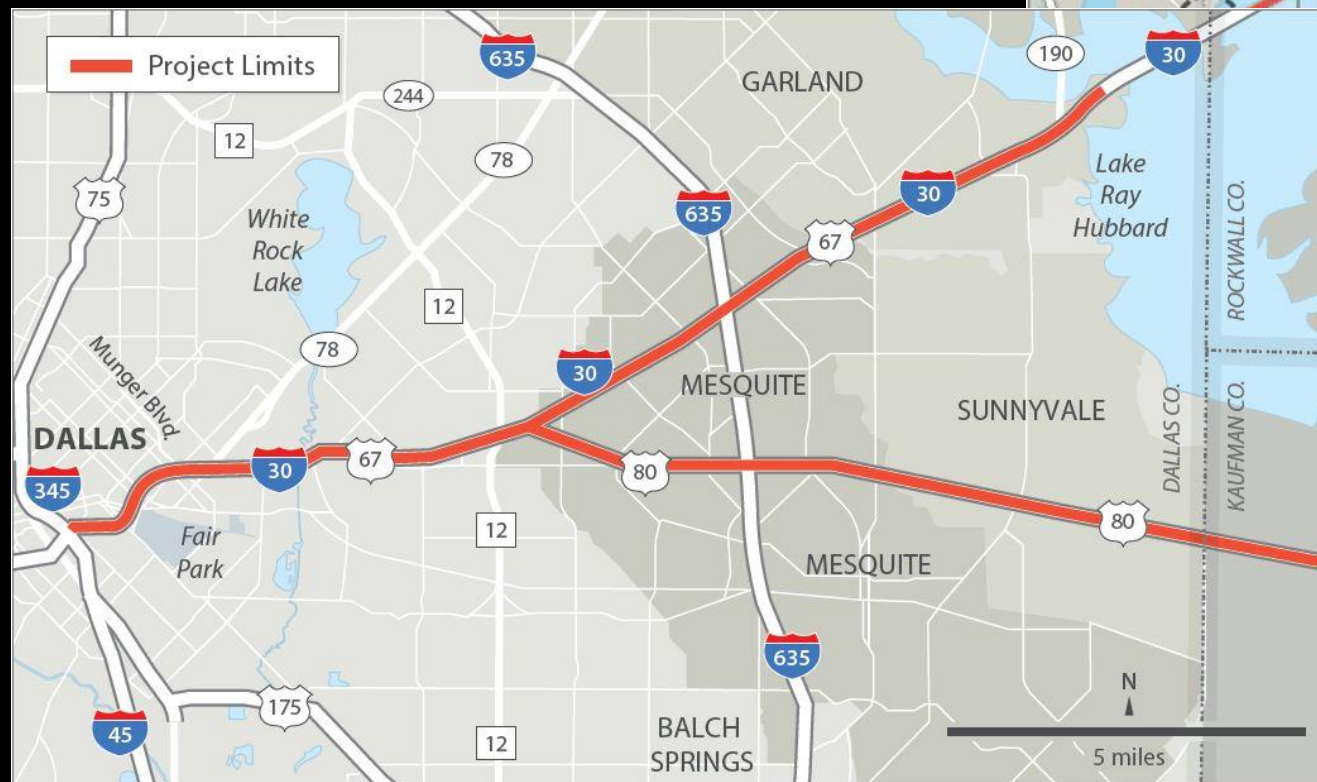
Transportation Update

January 17, 2017

Transportation Update

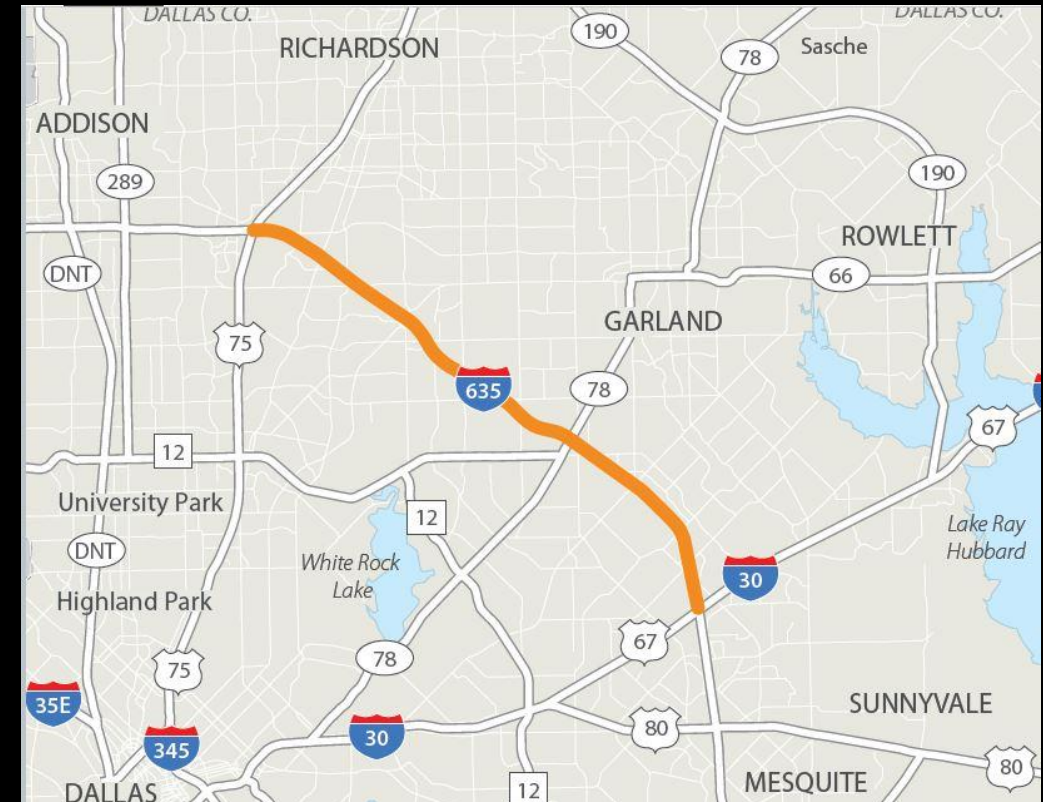
- ◊ IH 30
- ◊ IH 635 East
- ◊ Texas 85th Legislative Session

IH 30



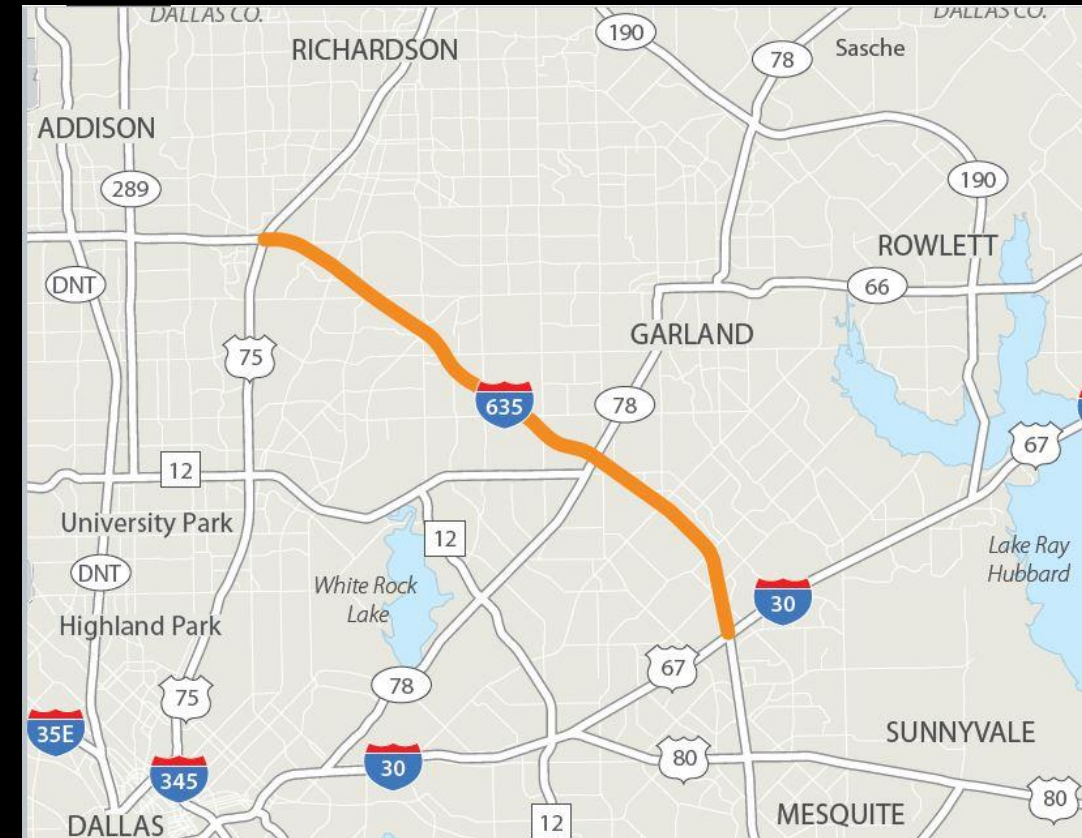
IH 635 East – Engineering

- ◆ Ultimate Project
 - ◆ Still Number 1
 - ◆ TxDOT Activity
 - ◆ Construction Plans
 - ◆ Traffic and Revenue study
 - ◆ Public Hearing
 - ◆ Environmental
 - ◆ Construction 2018



IH 635 East – Funding

- ◆ Legislative Efforts
 - ◆ DRMC
 - ◆ RTC





GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

Work Session Item 2. e.

Meeting Date: January 17, 2017

Item Title: Code Compliance Parking Violation Pilot Study

Submitted By: Richard Briley, Managing Director

Summary of Request/Problem

At the request of Council Member B. J. Williams and Council Member Anita Goebel, Code Compliance staff will present the initial findings from a residential parking violation pilot study conducted by the department.

Recommendation/Action Requested and Justification

Council discussion.

Attachments

Parking Violation Pilot Study



GARLAND

CODE COMPLIANCE
PARKING VIOLATION PILOT STUDY

JANUARY 17, 2017

Richard Briley, Managing Director of Health
Steve Killen, Director of Code Compliance

PARKING VIOLATION PILOT STUDY



PARKING VIOLATION PILOT STUDY

- Parking violations are difficult for the Neighborhood Code Inspectors, doing proactive sweeping of a neighborhood, to detect.
- Inspectors usually rely on citizen complaints to find violators.
- The proactive program allows a Code Inspector to see a particular home roughly once every sixty days. Although this is a very good inspection rate for most nuisance and housing violations, it is often not frequent enough to see vehicular violations.
- Councilwoman Goebel and Councilman Williams have received many complaints on parking violations from their constituents; Councilman Williams had requested a parking initiative during the summer.

PARKING VIOLATION PILOT STUDY

- In mid-September, the department began routing the Housing Standards Inspection Team through the first test area to help augment the Neighborhood Inspection Team's capacity.
- As the five Housing Inspectors traveled to and from the office to their appointments with apartment complexes and other property landlords they were charged with driving through the assigned residential neighborhoods looking for vehicular violations.
- The proposition was that without increasing staffing levels the department could use the "travel time" to add a very small amount of additional manpower and possibly lessen the number of vehicular complaints coming from the neighborhood residents.

PARKING VIOLATION PILOT STUDY



PARKING VIOLATION PILOT STUDY

TRAILERS PARKED ON STREET



OVER-SIZED VEHICLES IN
RESIDENTIAL NEIGHBORHOOD



PARKING VIOLATION PILOT STUDY

INOPERABLE VEHICLES ON
RESIDENTIAL STREET

VEHICLE STORAGE ON STREET
(EXCESS OF 48 HOURS)



CODE COMPLIANCE PARKING VIOLATION PILOT STUDY (DISTRICT 2)

September 18 – October 18

52 vehicles tires marked

31 vehicles tagged

2 vehicles towed

October 19 – November 18

30 vehicles tires marked

18 vehicles tagged

0 vehicles towed

November 19 – December 18

21 vehicles tires marked

9 vehicles tagged

1 vehicle towed



CODE COMPLIANCE PARKING VIOLATION PILOT STUDY (DISTRICT 4)

December 19 – to date
32 vehicles tires marked
12 vehicles tagged
0 vehicles towed



PARKING VIOLATION PILOT STUDY

- The number of vehicles marked and tagged in the initial test area decreased significantly over the three-month test period with roughly the same number of inspections being made by staff each month.
- Citizen complaints on vehicle parking violations decreased over forty percent (40%) city-wide during the first three-month test period.**
- Trends seem promising. Goals met: improvements were made without an increase in staff numbers or use of additional funds.
- Plans are to continue the parking initiative focusing on problematic areas as resources allow and shifting to new areas once violation rates decrease.
- A new Code Inspector position was approved in the current budget; the department is near full staffing but will continue the parking initiative with the Housing Inspectors.

**Weekend staffing was expanded to Sunday in October



GARLAND