

## Exhibit A

### Chapter 18 - BUILDINGS AND BUILDING REGULATIONS<sup>[1]</sup>

**State Law reference**— General enforcement authority of municipalities for preservation of health, property and good government, V.T.C.A., Local Government Code § 54.001 et seq.

#### ARTICLE I. - IN GENERAL

Secs. 18-1—18-25. - Reserved.

#### ARTICLE II. - ADMINISTRATION

Sec. 18-26. - Enforcement and remedies.

- (a) *Enforcement.* This chapter shall be administered and enforced by the city building official and city fire marshal or their duly authorized representatives. They may both issue and for good cause revoke permits required by this chapter.
- (b) *Penalties.* Any person violating any of the provisions of this chapter shall upon conviction thereof be fined to the maximum allowed by law for each offense; each day or part thereof the violations occurs or is permitted to continue shall constitute a separate offense. The second conviction for violation of this chapter shall be conclusive evidence that such contravening use shall be construed as a public nuisance.
- (c) *Remedies.*
  - (1) For willful and continuous violation of the provisions of this chapter by any person, the board of adjustment shall have the power to revoke and repeal all permits and privileges granted to the person. The revocation of a registration shall require a public hearing by the board of adjustment prior to such action, and an affirmative vote of at least three members of the board shall be required to accomplish such action.
  - (2) If any building or other structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the city building official or any other appropriate authority or any adjacent or neighboring property owner who would be specially damaged by such violations, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, alteration, repair, conversion, maintenance or use or to correct or abate such violations or to prevent occupancy of such buildings, structures or land.
  - (3) The remedies stated in this section shall be cumulative of any and all other remedies available at law in equity.
- (d) *Minimum fees.* The minimum fees issued by the community development department under this chapter, including but not limited to contractor registration, building, burning, fill, demolition, electrical, plumbing, gas, development, occupancy, moving, swimming pool, and mechanical permits, shall be as established by ~~separate resolution~~ **Appendix B – Master Fee Schedule**.

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(Code 1976, § 5.5-4; Code 1996, § 18-26; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-27. - Board of adjustment and appeals.

- (a) Wherever the various codes adopted in this chapter use the term "board of adjustment and appeals," it shall mean the city board of adjustment created in Charter, section 6.08. The board of adjustment shall hear appeals to the decisions of the building official and may issue variances as limited by the various codes. The board of adjustment shall establish rules and regulations for its own procedures not inconsistent with the provisions of these codes.
- (b) The board shall meet from time to time as determined by its chairperson. In any event, the board shall meet at its next regularly scheduled time but no less than 15 working days after notice of appeal has been received. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted on the public bulletin board at city hall for two weeks after filing. The board may solicit testimony from expert witnesses and from the public at large.

(Code 1976, § 5.5-10; Code 1996, § 18-27)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 211.008.

Sec. 18-28. - Building permits required.

- (a) Building trade permits and fees shall be required as adopted in ~~this chapter~~ **Appendix B – Master Fee Schedule**.
- (b) Such permits shall be available for inspection at the job site from beginning of construction until final approval by the building official.
- (c) The building official may adopt such rules for the issuance of emergency permits as he or she deems reasonable.
- (d) Emergency permits will only be issued for the repair or service of existing systems during times when the building department is not open for business and shall only be available for the restoration or protection of basic services affecting the immediate health, safety or welfare of the public. Such emergency permits must have application made during the first regular business day following the emergency.

(Code 1976, § 5.5-7; Code 1996, § 18-28)

**State Law reference**— Time period for issuance or denial of permit by municipality, V.T.C.A., Local Government Code § 214.904.

Sec. 18-29. - Consolidation of permits.

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Certain permits may be consolidated and issued as a single document, when issued to a single person or to a master mechanic licensed to perform all permitted tasks. The permits may be grouped as follows with each group subject to the minimum permit fee. No other groupings are permitted.

*Groups:*

- (1) Plumbing and gas.
- (2) Building, fire, life safety, housing.

(Code 1976, § 5.5-6; Code 1996, § 18-29)

Sec. 18-30. - Inspections required.

- (a) When any part of an installation is to be hidden from view by the permanent placement of parts of a building, the master contractor, master tradesman or maintenance electrician to whom the permit has been issued shall notify the city building official, providing that when such installation causes the concealment of parts of a system that must, at the discretion of the city building official, necessarily proceed continuously, the master contractor, master tradesman or maintenance electrician to whom the permit has been issued shall give the building official due notice and inspection shall be made periodically during the progress of the work.
- (b) Where, in the discretion of the city building official, it is necessary, the building official shall post notice upon the premises stating that work is approved and may be covered or is not approved and may not be covered until such further inspection as is necessary has been made. Any person removing, destroying, altering or defacing the notice without the consent of the building official shall be deemed guilty of an offense under this section, and any work described in the notice shall be stayed pending the further necessary inspection.
- (c) Upon the completion of the work which has been authorized by the issuance of a permit, it shall be the duty of the master contractor, master tradesman or maintenance electrician to whom the permit has been issued to immediately notify the building official.
- (d) If the work is found to be in compliance with the provisions of this chapter, the building official, subject to the other applicable provisions of this chapter, shall issue final approval to the appropriate public utility corporation furnishing the service or the person supplying the service, which shall authorize connection of such approved work to the source of the utility, the provision of service and the use of the installation. No connection shall be made until such authorization is issued.

(Code 1976, § 5.5-8; Code 1996, § 18-30)

Sec. 18-31. - Certificate of occupancy required.

- (a) A certificate of occupancy shall be required as provided in the building code adopted in section 18-121.
- (b) No building or other structure erected, moved or altered in its use shall be used until the building official shall have issued a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this chapter. Within three working days after the owner or his or her agent has notified the building official that a building or premises or

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part thereof is ready for occupancy or use, it shall be the duty of the building official to make a final inspection thereof and to issue a certificate of occupancy, if the building or premises is found to conform with the provisions of this chapter and all other applicable statutes and ordinances. If such a certificate is refused, the building official shall state in writing the reason for refusal.

(Code 1976, § 5.5-9; Code 1996, § 18-31)

Secs. 18-32—18-55. - Reserved.

#### ARTICLE III. - CONTRACTORS, TRADESMEN, APPRENTICES

Sec. 18-56. - Registration.

(a) *Required.*

- (1) All persons performing construction, installation or repair work on buildings, structures, trades systems or any other improvements or demolition shall be registered to do so. Homeowners repairing their domiciles are excluded from such requirement.
- (2) Trades permits shall be issued only to licensed master tradesmen. Such permits shall be issued to an individual only in the trade in which he or she is licensed. Permits shall also be issued to homeowners eligible under this chapter.
- (3) Nothing in this chapter shall be construed or operate to prevent any person from doing general construction or trade work in or on the property where he or she resides and which he or she maintains as a homestead. The term "general construction or trade work" shall mean the keeping in safe repair of any and all plumbing, electrical, mechanical and structural installations. It shall not include the moving and relocation of an apparatus, the extension, or relocation of electrical circuits, devices, appliances, equipment, fixtures or modifications to elements of the structure.

(b) *Insurance.*

- (1) All general contractors and trade contractors shall maintain liability and accident insurance in the minimum amounts of \$300,000.00.
- (2) Proof of insurance shall be presented to the building official prior to the issuance of any permit and shall be maintained for the duration of the permit. Copies of the certificates of insurance shall be maintained by the building official for each contractor eligible to draw permits.

(Code 1976, § 5.5-11; Code 1996, § 18-56; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Section 2(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, changed the title of § 18-56 from "Licenses" to "Registration."

Sec. 18-57. - Work performed without permit.

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It shall be unlawful to perform work for which a permit is required under this chapter without first obtaining such permit. Failure to obtain permits prior to commencement of work shall subject the violator to the various penalties prescribed by the individual codes and as prescribed in this chapter.

(Code 1976, § 5.5-18; Code 1996, § 18-63)

Secs. 18-58—18-90. - Reserved.

#### ARTICLE IV. - STANDARDS

##### DIVISION 1. - GENERALLY

Sec. 18-91. - Definitions.

The following words, terms and phrases, when used in this chapter and/or the codes adopted by reference in this article, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

*Board of adjustment and appeals* and *construction board of adjustments and appeals* mean the board of adjustment created in Charter, section 6.08.

*Building official* includes and may be substituted for the term "electrical official," "gas official," "plumbing official," or "mechanical official" in every case where the city council has either chosen not to specifically appoint such trade official or has failed to do so.

*General contractor* means an individual or company that is responsible for the day to day oversight, and management of vendors and sub-contractors at a construction site. (The term shall include, however, and shall not be limited to home builders, remodelers, commercial, pool, tree removal, and paving contractors).

*Inspector* means the inspector or assistant as designated by the corresponding building official, electrical official, gas official, mechanical official and plumbing official.

*Licensed master tradesmen* means an individual who is licensed as a master tradesmen by the State of Texas to perform electrical, mechanical, or plumbing work.

*Municipality* means the City of Seabrook, Texas.

*Trade contractor* means an individual or company that is licensed by the state to perform work in the areas of electrical, mechanical, lawn irrigation, fire suppression and/or plumbing.

*Trade official* means the electrical official, gas official, plumbing official, or mechanical official.

(Code 1976, § 5.5-2; Code 1996, § 18-91; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-92. - Conflicts between adopted technical codes.

The codes and appendices and exceptions as adopted in this article are incorporated by reference in this article and made a part of this article as fully as if copied at length in this article, provided, that if

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there is a conflict between the provisions of each of the technical codes or other provisions of this Code, the more rigorous or restrictive shall prevail.

(Code 1976, §§ 5.5-5, 5.5-51; Code 1996, § 18-92)

Sec. 18-93. - Updating and revisions.

It is the intention of the city council to adopt and maintain codes consistent with the state of the art and consistent with evolving law. Each year, as revisions are made to these codes by the responsible code organization and the code becomes available to the city, the building official, the fire marshal and director of the public utilities shall review the proposed revision for relevance to the city.

(Code 1976, § 5.5-3; Code 1996, § 18-93)

Secs. 18-94—18-120. - Reserved.

#### DIVISION 2. - CONSTRUCTION STANDARDS

Sec. 18-121. - Building code—Adopted.

The International Building Code, ~~2009~~ **2015** edition, as published by the International Code Council, is adopted as the building code of the city. A copy of the building code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-121; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 214.212.

Sec. 18-122. - Same—Amendments.

The building code adopted by reference in section 18-121 shall be amended as follows:

- (1) No building of three stories or more above grade, including buildings on piers, nor any building over 40 feet in height above grade, as defined by the building code shall be constructed unless it be fully protected by a code-approved fire sprinkler system.
- (2) Exception: One-family and two-family detached residential dwellings are not so restricted and fire protection thereof will be controlled by the appropriate sections of the standard codes.
- (3) Section 101.1 Insert: City of Seabrook.
- (4) Section 105.2 Work Exempt from a Permit, **Modify: #1 “one story detached accessory structures used as storage sheds, playhouses, and similar uses, provided the floor area**

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**is not grater than 120 square feet (11m<sup>2</sup>) 50 square feet ( 4.6 M<sup>2</sup>)”**, Delete: #1, #5, #6, #10, and #12.

- (5) Section 113 Board of Appeals: Delete.
- (6) Section 1507.8—1507.9-8 Roofing—Wood Shingle and **Wood** Shake Installation: Delete; to be replaced with the following:  
Wooden, straw and thatch roofs:
  - (a) Wooden roof coverings, including but not limited to wooden shingles and wooden shakes, and roof coverings of thatch and straw are prohibited and shall not be used.
  - (b) Any roof prohibited by subsection (a) of this section but in use on the effective date of the ordinance from which this section derives, may continue to be used. Any roof of materials prohibited in subsection (a) of this section that is in existence on the effective date of the ordinance from which this section derives may be repaired or altered with such materials; provided, such alteration or repair does not exceed 25 percent of the roof area. Alteration or repair of more than 25 percent of the roof area shall require replacement of the entire roof with acceptable materials.
  - (c) Palapas are exempt from the previous requirements as long as the following requirements are met:
    - 1. Total area does not exceed 800 square feet.
    - 2. A fire retardant shall be applied to the thatched roofing material that carries an ASTM E-84 Class A Fire Rating with a maximum Flame Spread Classification of 40.
    - 3. Palapa(s) shall be defined as: An open-sided accessory structure with a thatched roof often made of dried palm leaves.
- (7) Section 1612.3 Insert: City of Seabrook.
- (8) Section 1612.3 Insert: June 18, 2007 (Current FIRM Date).
- (9) Section 3412.2 Insert January 1, 1976 (Adoption Date of First City Building Code).
- (10) Windstorm Standard: All construction within the city, both east and west of Texas Highway 146, shall comply with the wind design standards set forth: ~~(120 MPH (3 Second Gust).~~ **Speed (MPH) : 150 MPH (Ultimate Design Wind Speed, V<sub>ult</sub>).**
- (11) All structures exceeding one story in height or 300 square feet in area shall be designed by a State of Texas Licensed Engineer.
- (12) Chapter 11 Accessibility: Delete; to be replaced with the following: Buildings and facilities shall be designed and constructed to be accessible in accordance with the Texas Architectural Barriers Act and Texas Civil Statues Article 9102.
- (13) Appendices, Delete: A, B, C, D, E, F, G, H, I, and J.

(Code 1976, § 5.5-31; Code 1996, § 18-122; Ord. No. 95-27, § I, 10-3-1995; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-123. - One-family and two-family dwelling code—Adopted.

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The ~~2009~~ **2015** edition of the International Residential Code, as set forth in state law as the statewide municipal residential building code, is hereby adopted as the residential dwelling code of the city with certain enumerated exceptions in article II, where applicable. A copy of such code shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1996, § 18-123; Ord. No. 2001-08, § 2, 8-21-2001; Ord. No. 2002-01, § 2, 3-5-2002; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**State Law reference**— The International Residential Code is the statewide municipal residential building code, V.T.C.A., Local Government Code § 214.212.

Sec. 18-124. - Same—Amendments.

The residential building code adopted by reference in section 18-123 shall be amended as follows:

- (1) Section R101 Insert: City of Seabrook.
- (2) Section R105 Work Exempt from a Permit, **Modify: #1 “one story detached accessory structures used as storage sheds, playhouses, and similar uses, provided the floor area is not grater than 120 square feet (11m<sup>2</sup>) 50 square feet ( 4.6 M<sup>2</sup>)”**, Delete: #4, #5, #9, and #10.
- (3) Section R112 Board of Appeals: Delete.
- (4) Table R301.2 Climatic and Geographic Design. **Ground Snow Load: 0**
  - (a) ~~Ground Snow Load: 0~~ **Weathering: Negligible**
  - (b) ~~Wind Speed (MPH)/ Minimum Exposure: 120 MPH (Three Second Gust)/Exposure C~~ **Frost Line Depth: 6”.**
  - (c) ~~Seismic Design Category: A~~ **Termites: Very Heavy**
  - (d) ~~Weathering: Negligible~~ **Speed (MPH) : 150 MPH (Ultimate Design Wind Speed,  $V_{ult}$ ).**
  - (e) ~~Frost Line Depth: 6”~~ **Winter Design Temp: 32 Degrees Fahrenheit**
  - (f) ~~Termites: Very Heavy~~ **Seismic Design Category: A**
  - (g) ~~Winter Design Temperature: 32 Degrees Fahrenheit~~ **Flood Hazards: (a) NFIP Entry Dated April 23, 1971 (b) Flood Insurance Study (FIS) Dated January, 6 2017 (c) Flood Insurance Rate Map (FIRM) Panels 1085M, 1095M, and 1105M Dated January 6, 2017**
  - (h) ~~Flood Hazards: Flood Insurance Rate Map (FIRM) Dated June 18, 2007~~ **Ice barrier Underlayment Requirement: No**
  - (i) ~~Air Freezing Index: 50 Degrees Fahrenheit~~ **Air Freezing Index: 1500 or Less**
  - (j) Mean Annual Temperature: 70 Degrees Fahrenheit
  - (k) Topographic Effects: No**
  - (l) Special Wind Region: No**
  - (m) Wind-born Debris Zone: Yes**



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- (5) Section R313 Automatic Fire Sprinkler System: Delete.
- (6) Section R907.5 **5.7** - R907.9.3 **5.8** Wood Shakes **Shingles** and Shingles **Wood Shakes**: Delete; to be replaced with the following: Wooden, straw and thatch roofs:
  - (a) Wooden roof coverings, including but not limited to wooden shingles and wooden shakes, and roof coverings of thatch and straw are prohibited and shall not be used.
  - (b) Any roof prohibited by subsection (a) of this section but in use on the effective date of the ordinance from which this section derives, may continue to be used. Any roof of materials prohibited in subsection (a) of this section that is in existence on the effective date of the ordinance from which this section derives may be repaired or altered with such materials; provided, such alteration or repair does not exceed 25 percent of the roof area. Alteration or repair of more than 25 percent of the roof area shall require replacement of the entire roof with acceptable materials.
  - (c) Palapas are exempt from the previous requirements as long as the following requirements are met:
    - 1. Total area does not exceed 800 square feet.
    - 2. A fire retardant shall be applied to the thatched roofing material that carries an ASTM E-84 Class A Fire Rating with a maximum Flame Spread Classification of 40.
    - 3. Palapa(s) shall be defined as: An open-sided accessory structure with a thatched roof often made of dried palm leaves.
- (7) Windstorm Standard: All construction within the city, both east and west of Texas Highway 146, shall comply with the wind design standards set forth: ~~(120 MPH (3 Second Gust))~~ **150 MPH (Ultimate Design Wind Speed,  $V_{ult}$ )**.
- (8) All structures exceeding one story in height or 300 square feet in area shall be designed by a State of Texas Licensed Engineer.
- (9) Section P2603.6.4 **5.1**, Insert: Sewer burial depth minimum 12 inches.
- (10) Chapters 34—43 Residential Electrical Code: Delete. **(Refer to DIVISION 3 ELECTRICAL)**

~~For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, use, location and maintenance of residential electrical systems and equipment as defined by the code, including permits and penalties, there is hereby adopted NFPA 70, National Electrical Code, 2011 edition, excluding Article 80, including all appendices, adopted by the National Fire Protection Association. Such code is published in book form and referred to, incorporated in and made part of this section for all purposes.~~
- ~~(11) The minimum conductor size of all lighting and power circuits' installation greater than 100 volts shall be no less than 12 AWG.~~
- ~~(12) No aluminum conductors shall be used in the city for electrical purposes within any one or two-family dwelling.~~
- ~~(13) Armored Cable (Type AC) without an individual grounding conductor is prohibited.~~
- ~~(14) A means of service disconnect shall be provided at the exterior of all buildings or facilities, directly next to the service meter or entry of the service conductors.~~

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(45 11) Section N1101.9 Energy Code, Delete. **(Refer to DIVISION 10 ENERGY)**

(46 12) Appendices, Adopt: A, B, C, G, J, N, and O.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-125. - Construction near transmission pipelines.

- (a) *Intent.* It is the opinion of the city council that the construction of buildings and habitable spaces in close proximity to transmission pipelines encourages the citizens to inhabit an unacceptably high hazard environment. The intent of this section is to prohibit construction of habitable spaces and all buildings within specified distances from transmission pipelines to reduce such risk to citizens and to the community at large.
- (b) *Buildings and occupied space prohibited within easement.* No buildings of any type and no recreational, entertainment, assembly or mercantile space shall be permitted to occur within a pipeline easement or within 25 feet of a vertical plane passing through the centerline of any commercial transmission pipeline.
- (c) *Construction of buildings to easement.* Buildings and structures may be constructed to but not encroaching upon pipeline transmission easements under the following conditions:
  - (1) Where natural gas distribution lines supplying natural gas to the immediate neighborhood occur.
  - (2) Where all water lines, sanitary and storm sewer lines occur.
  - (3) Where access drives and private or public streets cross such easements, they will be permitted according to the following limitations:
    - a. With permission given by the pipeline owner.
    - b. Access drives and private streets are limited to a maximum of 28 feet of width and crossings spaced not closer than 60 feet.
    - c. Public streets and roads are limited to a maximum width as recommended by the city engineer.
    - d. State-owned roads and highways are exempt from limitation.
- (d) *Identification and location of lines.* It shall be the responsibility of the property owner, tenant and contractor seeking a permit to identify and locate all such pipelines and pipeline easements affecting the building or use. Lines and easements shall be identified on the plans, and the location of the lines shall be determined by a registered surveyor. Documentation shall be submitted with the permit application.

(Code 1976, § 22.1-1—22.1-4; Code 1996, § 18-124; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Former § 18-124.

Secs. 18-126—18-150. - Reserved.

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**Editor's note**— Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, repealed former §§ 18-125 and 18-127, which pertained to windstorm standards and regulation of single-family and duplex industrialized housing, and derived from Code 1976, §§ 22.1-1—22.1-4; Code 1996, §§ 18-124, 18-125; Ord. No. 2001-21, § 2, adopted Aug. 21, 2001; and Ord. No. 2006-06, § 2, adopted May 2, 2006.

#### DIVISION 3. - ELECTRICAL

##### Sec. 18-151. - Electrical code—Adopted.

For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, use, location and maintenance of electrical systems and equipment as defined by the code, including permits and penalties, there is hereby adopted NFPA 70, National Electrical Code, ~~2011~~ **2017** edition, including all appendices, adopted by the National Fire Protection Association, but excluding Article 80. Such code is published in book form and referred to, incorporated in and made part of this section for all purposes. A copy of the electrical code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

##### Sec. 18-152. - Same—Amendments

The electrical code adopted by reference in section 18-151 shall be amended as follows:

- (1) The minimum conductor size of all lighting and power circuit installation greater than 100 volts shall be no less than 12 AWG.
- (2) No aluminum conductors **smaller than 2/0** shall be used within the city for electrical purposes.
- (3) Armored Cable (Type AC) without an individual grounding conductor is prohibited.
- (4) **An Accessible** means of service disconnect shall be provided at the exterior of all buildings or facilities, directly next to the service meter or entry of the service conductors.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

##### Sec. 18-153. - Special restrictions.

###### (a) *Franchises.*

- (1) No person who, or public service company that does not operate under a franchise granted by the city, shall have the right to install any electrical conduit, wires, ducts, poles or equipment of any character for the transmission, distribution or utilization of electrical energy or for the operation of signals or the transmission of intelligence on, over or under the streets in the city, without first obtaining from the city council a franchise right or grant for the particular

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installation so desired to be made. Any such installation so made under such franchise or grant shall be in strict conformity with all rules and regulations and ordinances of the city.

- (2) Any installation of duct tube, conduit wire or wires under the public street shall be in accordance with this chapter and other city ordinances covering the use of public places and streets.
- (b) *Interference with or change of installation.* It shall be unlawful for any person in any manner to interfere with any electrical wiring installed or being installed in or on, within or without any structure or building. If, in the course of erection of a building or structure, the wiring is in such position as to interfere with the erection or completion of the building or structure as called for by the plans, notice shall immediately be given to the person installing the wiring and the needed change shall be made by such person.

Code 1976, § 5.5-42; Code 1996, § 18-177; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Former § 18-177.

Sec. 18-154. - Connections to installations.

- (a) It shall be unlawful for any person to make connection from a source of electrical energy to any electrical wiring, apparatus, device, appliance, fixture and equipment, the installation of which a permit is required, until he or she shall have received, as provided in this chapter, and shall have retained initial files available for inspection, a certificate of approval issued by the city electrical inspector authorizing such connection and the use of such wiring apparatus, devices, appliances, fixtures and equipment.
- (b) It shall be unlawful for any person to make connection for a source of electrical energy to any electric wiring, apparatus, device, appliance, fixture and equipment which has been disconnected until a certificate of approval has been issued by the city electrical inspector.
- (c) It shall be unlawful for any person to make connection from any source of electrical energy to any electric wiring, apparatus, device, appliance, fixture or equipment that is capable of establishing electrical potential to the electrical utility service entrance. Generators and other electrical energy devices shall be isolated from the utility service by approved disconnecting devices or procedures.

(Code 1976, § 5.5-46; Code 1996, § 18-202; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Former § 18-202.

Secs. 18-155—18-235. - Reserved.

**Editor's note**— Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, repealed former §§ 18-176, 18-201, 18-203—18-206, which pertained to adoption of administrative chapter of building code, electrical code adopted, responsibility for continuing compliance, aluminum wire prohibited, commercial and residential conduit, meter cabinets and equipment, and derived from Code 1976, §§ 5.5-5, 5.5-41, 5.5-47—

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5.5-53; Code 1996, §§ 18-125, 18-176, 18-201, 18-203—18-206; Ord. No. 2002-03, § 2, adopted March 5, 2002.

DIVISION 4. - GAS

Sec. 18-236. - Gas code adopted.

The International Fuel Gas Code, ~~2009~~ **2015** edition, as published by the International Code Council, is adopted as the gas code of the city. A copy of the gas code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-236; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-237. - Same—Amendments.

The fuel gas code adopted by reference in section 18-236 shall be amended as follows:

- (1) Section 101.1 Insert: City of Seabrook.
- (2) Section 106.6.2 Fee Schedule, Delete.
- (3) Section 106.6.3 Fee Refunds, Delete.
- (4) Section 108.4 Violation Penalties, Insert: To be determined by municipal court.
- (5) Section 108.5 Stop Work Orders, Insert: To be determined by municipal court.
- (6) Section 109 Board of Appeals, Delete.
- (7) Appendices, Adopt: A, B, C, and D.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, repealed former § 18-237 and enacted a new § 18-237 as set out herein. The former § 18-237 pertained to exceptions to the international residential code and derived from Code 1996, § 18-329; Ord. No. 2004-03, § 2, adopted March 2, 2004.

Secs. 18-238—18-265. - Reserved.

DIVISION 5. - HOUSING

Sec. 18-266. - Housing code adopted.

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### Chapter 18 - BUILDINGS AND BUILDING REGULATIONS<sup>[1]</sup>

The International Existing Building Code, ~~2009~~ **2015** edition, as published by the International Code Council, is adopted as the housing code of the city. A copy of this code shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-266; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-267. - Same—Amendments.

The housing code adopted by reference in section 18-266 shall be amended as follows:

- (1) Section 101.1 Insert: City of Seabrook.
- (2) Section 105.2 Work Exempt from a Permit, Delete: #1.
- (3) Section 1301.2 Insert: January 1, 1976.
- (4) Appendices, Delete: A, B, and C.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Secs. 18-268—18-295. - Reserved.

#### DIVISION 6. - MECHANICAL

Sec. 18-296. - Mechanical code—Adopted.

The International Mechanical Code, ~~2009~~ **2015** edition, as published by the International Code Council, is adopted as the mechanical code of the city. A copy of the mechanical code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-296; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-297. - Same—Amendments.

The mechanical code adopted by reference in section 18-296 shall be amended as follows:

- (1) Section 101.1 Insert: City of Seabrook.
- (2) Section 106.5.2 Fee Schedule: Delete.
- (3) Section 106.5.3 Fee Refund: Delete.
- (4) Section 108.4 Violation Penalties, Insert: To be determined by municipal court.
- (5) Section 108.5 Stop Work Orders, Insert: To be determined by municipal court.
- (6) Section 109 Board of Appeals: Delete.
- (7) Appendices, Adopt: A.

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(Code 1976, § 5.5-121; Code 1996, § 18-297; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Secs. 18-298—18-325. - Reserved.

#### DIVISION 7. - PLUMBING

Sec. 18-326. - Plumbing code—Adopted.

The International Plumbing Code, ~~2009~~ **2015** edition, as published by the International Code Council, is adopted as the plumbing code of the city. A copy of the plumbing code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-326; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-327. - Same—Amendments.

The plumbing code adopted by reference in section 18-326 shall be amended as follows:

- (1) Section 101.1, Insert: City of Seabrook.
- (2) Section 106.6.2 Fee Schedule: Delete.
- (3) Section 106.6.3 Fee Refunds: Delete.
- (4) Section 108.4 Violation Penalties, Insert: To be determined by municipal court.
- (5) Section 108.5 Stop Work Orders, Insert: To be determined by municipal court.
- (6) Section 109 Board of Appeals: Delete.
- (7) Section 305.6.1 Sewer Depth: Building sewers that connect to a private sewage disposal system shall be a minimum of six (~~6~~ **12**) inches below finished grade at the point of connection. Building sewers shall be a minimum of twelve (12) inches below grade.
- (8) Section 904.1 Roof Extension: All open vent pipes that extend through a roof shall be terminated at least six (6) inches above the roof, except that where the roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven (7) feet above the roof.
- ~~(9) "Water Pipe and Fitting Materials" is amended to provide that copper tubing must be a minimum of Type L.~~

**(9) Section 504.7 Required Pan: Is Modified to read:**

**"Where a water heating appliance or a hot water storage tank is installed in a location where water leakage from the appliance or tank will cause damage to building finishes or structure, the heater or tank shall be installed over or in a galvanized steel pan having a material thickness of not less than 0.0236 inch (0.60 10 mm) (No. 24 gage), or other pans approved for such use."**

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- (10) When using PVC material; drain, waste, vent, and sewer pipe shall be a minimum of Schedule 40. (The use of SDR 35 piping is prohibited)
- (11) Appendices, Adopt: B, C, D, E, F, and G.
- (12) Individual water supplies. No well shall be drilled or dug without Harris County Subsidence District approval and the expressed permission of City Council.
  - (a) *Location of wells.* While the determination of a safe distance between groundwater supplies and a possible source of contamination is dependent on many factors, to safeguard a well from possible sources of contamination such as stock and poultry yards, privies, septic tanks, absorption fields, etc., it is recommended that the well be located at least 150 feet from such sources of contamination. If local conditions will not permit a distance of 150 feet between the well and the entire septic tank system, the watertight septic tank should be installed at least 50 feet from the well, and an effluent line of tight joints should be laid so that no part of the open jointed absorption field will be located within 150 feet of the well. It is also recommended that the well be located so that flooding and the entrances of surface water are prevented. For existing wells located less than 150 feet from possible sources of contamination, the construction of diversion ditches or levees between the well and potential source of contamination might be considered. Water-producing formations located less than ten feet from the original ground surface should be considered potentially unsafe and should not be utilized as a domestic water supply. Deeper wells drawing water from rock formations, such as limestone, that are creviced or channeled should also be regarded with suspicion until several analyses have demonstrated that the water is free from contamination. Even then, occasional analyses should be made, because polluted water may travel long distances through crevices or underground channels without being purified.
  - (b) *Well construction.*
    - 1. *Dug well.* The shallow dug well constructed with hand tools is only deep enough to reach shallow groundwater. This type of well generally furnishes comparatively little water, and it is difficult to maintain so as to ensure a clear and safe water supply. To be protected from surface contamination, a dug well must be provided with a watertight casing and a concrete cover. The casing or curbing for dug wells is usually constructed of stone, brick, tile or metal. No matter what the choice of materials may be, it is recommended that the upper ten feet of the casing or curbing be enclosed with reinforced concrete six inches in thickness. A sanitary pump should be installed to draw the water, and surface drainage should be such that surface waters are diverted from the well.
    - 2. *Drilled well.* Drilled wells are deep enough to reach a more plentiful and more reliable water supply. A casing of steel or other approved material should be placed in a drilled well to prevent caving of the formations penetrated and also to ensure protection of the water supply from contamination by water from shallow strata. To secure maximum protection against possible contamination, the well should be cased from the top of the water-producing formation to at least 18 inches above the elevation of the concrete surface slab or finished floor of the well house. The casing should also extend at least one inch above the top of the foundation upon which the pump or motor is mounted. It is also desirable to have the well casing pressure cemented from the top of the water formation to the earth's surface; at least, a



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mixture of watertight concrete should be placed around the upper ten feet of the casing, or deeper if necessary to exclude water from shallow formations. The drilled well should also be provided with a cover sloped away from the casing.

3. *Permit and licensed sanitarian required.* No water well of any type shall be installed without the expressed permission of the city council. Any application to the city council for a water well shall be accompanied by an analysis and a system design developed by a state licensed sanitarian. The well must be drilled by a licensed contractor to produce potable water. The well must be certified potable by the sanitarian and the certificate and substantiating laboratory tests must be submitted to the city prior to the use of the well for any purpose. Failure to produce potable water shall require reworking the well until potable water can be consistently demonstrated or the well must be abandoned and plugged with at least six feet of concrete. In no case shall the well be used to inject any substance into the ground. The foregoing restrictions may be waived by city council for the purpose of heat exchange systems using groundwater heating or cooling when the system meets minimum standards of other governmental agencies and when the system is designed by a qualified state professional engineer.
  4. *Limitation on distance from city main.* No water well shall be installed for the production of potable water when the property served lies within 500 feet of any suitable city water supply. Suitability of the city water supply shall be determined by the city engineer.
- (13) Individual sanitary treatment systems. No individual sanitary treatment systems shall be installed except as permitted herein.
- (a) *Sanitary treatment system certification and design.* All individual sanitary treatment system designs shall be certified by a state licensed sanitarian, and for any system to be used for other than one single-family detached residence the system shall be designed by and carry the seal of a state licensed professional engineer. The foregoing does not preclude the installation of factory-produced package units however, such units shall be certified as meeting minimum regulatory standards by the licensed sanitarian or professional engineer.
  - (b) *Permit required.* No individual sanitary treatment system shall be installed without a permit from the state department of health. No individual sanitary treatment system shall be installed without first obtaining permits from such other agencies as may have jurisdiction.
  - (c) *Limitation on distance from city main.* No individual sanitary treatment system shall be installed when the property served lies within 500 feet of any suitable city sanitary sewer main. Suitability of the city main will be determined by the city engineer.

(Code 1976, § 5.5-141; Code 1996, § 18-327; Ord. No. 96-22, § 1, 12-3-1996; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

DIVISION 8. - GREASE TRAP/SEPARATORS

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#### Sec. 18-328. - Purpose and policy.

This division sets forth uniform requirements for users of the publicly owned treatment works to capture and dispose of fats, oil and grease (fog) and enables the city to comply with all applicable state and federal laws, including the Clean Water Act, 33 U.S.C., § 1251, et seq.; and the General Pretreatment Regulations, Title 40 C.F.R. Part 403. The objectives of this division are:

- (1) To prevent the introduction of fats, oils and greases (FOG) into the publicly owned treatment works that will interfere with its operation;
- (2) To prevent the introduction of FOG into the publicly owned treatment works that could pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (3) To prevent sanitary sewer overflow (SSO), where sewer water flows out of a manhole cover and along the ground. These overflows can then contaminate the ground, local water bodies and any property that the sewerage comes into contact with;
- (4) To promote reuse and recycling of waste grease (FOG);
- (5) To enable the city to comply with federal, state and local pollutant discharge limits.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

#### Sec. 18-329. - Applicability and prohibitions.

- (a) This division shall apply to all nondomestic users of the publicly owned treatment works (POTW), as defined in this division.
- (b) Grease interceptors shall not be required for residential users.
- (c) The division shall apply to both new existing facilities generating fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service. Such facility users shall install, use, and maintain appropriate grease interceptors as defined in this division. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.
- (d) No user may intentionally or unintentionally allow the direct or indirect discharge of any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

#### Sec. 18-330. - Definitions.

The following words, terms and phrases, when used in this chapter and/or the codes adopted by reference in this article, shall have the meanings ascribed to them in this division except where the context clearly indicates a different meaning:

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*Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

*BOD* means the value of the 5-day test for biochemical oxygen demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

*COD* means the value of the test for chemical oxygen demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

*EPA* means the United States Environmental Protection Agency.

*Fats, oils, and greases (FOG)* means the organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

*Generator* means any person who owns or operates a grease trap/grease interceptor, or whose act or process produces a grease trap waste.

*Grease interceptor* means an appurtenance or appliance that is installed in a sanitary drainage system to intercept non-petroleum fats, oils and grease (FOG) from a wastewater. There are two types of grease interceptors: Gravity grease interceptors and hydromechanical grease interceptors.

*Grease interceptor, gravity/gravity grease interceptor* means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept non-petroleum fats, oils, and greases (FOG) from a wastewater discharge and is identified by volume, 30-minute retention time, baffle(s), a minimum of two compartments, a minimum total volume of 300 gallons, and gravity separation. These interceptors are designed by a registered professional engineer. Gravity grease interceptors are generally installed outside.

*Grease interceptor, hydromechanical/hydromechanical grease interceptor* means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and grease (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air entrainment, hydro mechanical separation, interior baffling, and/or barriers in combination or separately, and an external flow control, with air intake (vent).

*Grease removal device (GRD)* means any hydromechanical grease interceptor that automatically, mechanically removes nonpetroleum fats, oils and grease (FOG) from the interceptor, the control of which are either automatic or manually initiated.

*Grease waste* means material collected in and from a grease interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.

*FOG disposal system* means a grease interceptor that reduces nonpetroleum fats, oils, and grease (FOG) in effluent by separation, and mass and volume reduction.

*Indirect discharge or discharge* means the introduction of pollutants into a POTW from any nondomestic source.

*Interference* means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the city's TPDES permit.

*pH* means the measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

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*POTW or publicly owned treatment works* means a treatment works which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this division, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

*Transporter* means a person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with current regulations.

*TSS* means the value of the test for total suspended solids, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

*User* means any person, including those located outside the jurisdictional limits of the city, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-331. - Installation, sizing and maintenance requirements.

- (a) *Sizing and design.* All grease traps and separators shall be designed by a State of Texas licensed mechanical engineer. The drawings shall include all calculations and shall be signed and sealed by the engineer.
- (b) *Installations.*
  - (1) New facilities. Food processing or food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate and maintain a grease interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.
  - (2) Existing facilities. Existing grease interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these model standards, unless specified in writing and approved by the POTW.
  - (3) All grease interceptor waste shall be properly disposed of at a facility in accordance with federal, state, or local regulation.
- (c) *Cleaning and maintenance:*
  - (1) Grease interceptors shall be maintained in an efficient operating condition at all times so as not to allow anything other than domestic wastewater into the city collection system.
  - (2) Each grease interceptor when cleaned shall be fully evacuated.
- (d) *Self-cleaning; hydro-mechanical grease interceptors only.*

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- (1) Grease interceptor self-cleaning operators must receive approval from the POTW to remove grease from their own grease hydro-mechanical grease interceptors. The following conditions shall apply:
    - a. The grease interceptor is no more than 100 GPM size;
    - b. Proper on-site material disposal methods are implemented (e.g., absorb liquid into solid form and dispose into trash);
    - c. The local solid waste authority allows such practices;
    - d. Grease waste is placed in a leak proof, sealable container(s) located on the premises and in an area for the transporter to pump-out; and
    - e. Detailed records on these activities are maintained.
  - (2) Grease interceptor self-cleaning operators must submit a completed self-cleaning request to the POTW for approval. The written request shall include the following information:
    - a. Business name and street address;
    - b. Grease interceptor operator name, title, and phone number;
    - c. Description of maintenance frequency, method of disposal, method of cleaning and size (in gallons) of the grease interceptor; and
    - d. Signed statement that the operator will maintain records of waste disposal and produce them for compliance inspections.
  - (3) Self-cleaners must adhere to all the requirements; procedures and detailed record keeping outlined in their approved application, to ensure compliance with this division. A maintenance log shall be kept by self-cleaning operators that indicates, at a minimum, the following information:
    - a. Date the grease trap/interceptor was serviced;
    - b. Name of the person or company servicing the grease trap/interceptor;
    - c. Waste disposal method used;
    - d. Gallons of grease removed and disposed of;
    - e. Waste oil added to grease interceptor waste; and
    - f. Signature of the operator after each cleaning that certifies that all grease was removed, disposed of properly, grease trap/interceptor was thoroughly cleaned, and that all parts were replaced and in operable condition.
  - (4) Violations incurred by grease interceptors self-cleaners will be subject to enforcement action including fines and/or removal from the self-cleaner program.
- (e) *Cleaning schedules.*
- (1) Grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in discharge.

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- (2) Grease interceptors shall be completely evacuated a minimum of every 30 days, or more frequently when:
  - a. Twenty-five percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases; or
  - b. The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW; or
  - c. There is a history of noncompliance.
- (3) Any person who owns or operates a grease interceptor may submit to the POTW a request in writing for an exception to the 30-day cleaning frequency of their grease interceptor. The POTW may grant an extension for required cleaning frequency on a case-by-case basis when:
  - a. The grease interceptor owner/operator has demonstrated the specific interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the POTW; or
  - b. Less than 25 percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases.
- (4) In any event, a grease interceptor shall be fully evacuated, cleaned, and inspected at least once every 90 days.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

#### Sec. 18-332. - Manifest requirements.

- (a) Each pump-out of a grease interceptor must be accompanied by a manifest to be used for record keeping purposes.
- (b) Persons who generate, collect and transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
  - (1) Name, address, telephone, and commission registration number of transporter;
  - (2) Name, signature, address, and phone number of the person who generated the waste and the date collected;
  - (3) Type and amount(s) of waste collected or transported;
  - (4) Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
  - (5) Date and place where the waste was deposited;
  - (6) Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
  - (7) Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;

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- (8) The volume of the grease waste received; and
  - (9) A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- (c) Manifests shall be divided into five parts and records shall be maintained as follows:
- (1) One part of the manifest shall have the generator and transporter information completed and shall be given to the generator at the time of waste pickup.
  - (2) The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
  - (3) One part of the manifest shall go to the receiving facility.
  - (4) One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.
  - (5) One copy of the manifest shall be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility.
  - (6) One part of the manifest shall go to the local authority.
  - (7) Copies of manifests returned to the waste generator shall be retained for five years and be readily available for review by the POTW.
  - (8) Alternative treatment.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-333. - Bioremediation.

Bioremediation media shall only be used with approved FOG Disposal Systems ASME A112.14.4.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-334. - Compliance and testing.

All testing designed to satisfy the criteria set forth as defined in this division shall be scientifically sound and statistically valid. All tests to determine oil and grease, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency which are defined in Title 40, Code of Federal Regulations, Part 136. Testing shall be open to inspection by the POTW, and shall meet the POTW's approval.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-335. - Prohibited practices.

No person shall introduce, or cause, permit, or suffer the introduction of any surfactant, solvent or emulsifier into a grease interceptor. Surfactants, solvents, and emulsifiers are materials which allow the grease to pass from the grease interceptor into the collection system, and include but are not limited to, enzymes, soap, diesel, kerosene, terpene, and other solvents.

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(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-336. - Compliance monitoring.

- (a) *Right of entry.* The POTW shall have the right to enter the premises of any user or potential user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the POTW ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the POTW will be permitted to enter without delay for the purposes of performing specific responsibilities.
  - (2) The POTW shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
  - (3) The POTW may require the user to install monitoring equipment as necessary such as FOG sensing and alarm devices complying with PDI G102. The facility's monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense.
  - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the POTW and shall not be replaced. The costs of clearing such access shall be borne by the user.
  - (5) Unreasonable delays in allowing the POTW access to the user's premises shall be a violation of this division.
- (b) *Search warrants.* If the POTW has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, then the POTW may seek issuance of a search warrant.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-337. - Schedule of penalties.

If the POTW determines that a generator is responsible for a blockage of a collection system line the generator shall owe a penalty as provided by city code and applicable law. The generator is subject to actual cost of cleaning and/or repairing damage caused to the collection system.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-338. - Judicial enforcement remedies.

*Injunctive relief.* When the POTW finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the POTW may petition the district court for the issuance of a



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temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The POTW may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Secs. 18-339—18-355. - Reserved.

DIVISION 9. - SWIMMING POOLS<sup>[2]</sup>

Footnotes:

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**Editor's note**— Former div. 8.

Sec. 18-356. - Swimming pool code—Adopted.

The International Residential Code, 2009 **2015** edition, Appendix G, is adopted as the swimming pool code of the city. Copies of the code adopted in this section shall be retained on file in the office of the city building official, with the enumerated exceptions and/or deletions.

(Code 1976, § 5.5-5; Code 1996, § 18-356; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**State Law reference**— Standards for public pools and spas, 25 Texas Admin. Code, § 265.181 et seq.

Sec. 18-357. - Same—Amendments.

The swimming pool code adopted by reference in section 18-356 shall be amended as follows:

- (1) Any private pool or spa located within the city shall not remain in a condition so as to create a public health or safety hazard or a nuisance to the general public. Anytime a private pool or spa contains any amount of water, the owner or occupant of the premises shall:
  - (a) Maintain water clarity so that all parts of the bottom can be seen.
  - (b) Maintain the pool or spa in such a manner so that the water in the pool does not become unwholesome. Unwholesome water means any condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, trash, debris, garbage, refuse, rubbish, or any other foreign matter which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition.

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- (c) Maintain proper fencing as required under this code.
- (d) Secure and lock all access gates to any pool located on unoccupied property.
- (2) It shall be unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, that contains a private pool or spa on said real property to permit or allow a condition to exist that is not in compliance with the conditions set forth in subsection (1).

(Code 1976, § 5.5-151; Code 1996, § 18-357; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

DIVISION 10. - ENERGY CONSERVATION

Sec. 18-358. - Energy conservation code—Adopted.

The International Energy Conservation Code, ~~2009~~ **2015** edition, is hereby adopted as the energy conservation code of the city. A copy of such code shall be retained on file in the office of the city building official.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-359. - Same—Amendments.

The energy conservation code adopted by reference in section 18-358 shall be amended as follows:

- (1) Section 101.1, Insert: City of Seabrook
- (2) Section 108.4 Violation Penalties, Insert: To be determined by municipal court.
- (3) Section 109 Board of Appeals, Delete.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

DIVISION 11. - PROPERTY MAINTENANCE

Sec. 18-360. - Property maintenance code—Adopted.

The International Property Maintenance Code, ~~2009~~ **2015** edition, is hereby adopted as the property maintenance code of the city. A copy of such code shall be retained on file in the office of the city building official.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

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Sec. 18-361. - Same—Amendments.

The property maintenance code adopted by reference in section 18-360 shall be amended as follows:

- (1) Section 101.1 Insert: City of Seabrook.
- (2) Section 105.5 Delete: Fee Schedule.
- (3) Section 107.6 Transfer of Ownership: Delete.
- (4) Section 108 Unsafe Structures and Equipment: Delete.
- (5) Section 109.5 Cost of Emergency Repairs, change to read:

"Cost incurred in the performance of emergency work may be paid by the jurisdiction. The jurisdiction shall certify all administrative expenses and cost of securing, repairing, or demolishing a building or buildings by the city or by persons doing so under contract with the city, as a charge which shall be assessed the owner thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent (10%) per annum until paid."

- (6) Section 110 Demolition: Delete.
- (7) Section 111 Means of Appeal: Delete
- (8) Section 112.4 Failure to Comply, Insert: To be determined by municipal court.
- (9) Section 302.4 Insert: Nine (9) Inches.
- (10) Section 304.2 Protective Treatment: Delete.
- (11) Section 304.14 Insert: January 1<sup>st</sup> to December 31<sup>st</sup>.
- (12) Section 305.3 Interior Surfaces: Delete.
- (13) Section 306 Component Serviceability Delete.
- (14) Section 309 Pest Elimination: Delete.
- (15) Section 602.3 Insert: November 1<sup>st</sup> to March 31<sup>st</sup>.
- (16) Section 602.4 Insert: November 1<sup>st</sup> to March 31<sup>st</sup>.
- (17) Appendix A Boarding Standards: Delete.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Secs. 18-362—18-385. - Reserved.

DIVISION 12. - SUBSTANDARD, UNSAFE BUILDINGS—DANGEROUS BUILDINGS<sup>[3]</sup>

Footnotes:

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**Editor's note**— Former div. 9. See Code Comparative Table for complete derivation.

**State Law reference**— General enforcement authority of municipalities regarding substandard buildings, V.T.C.A. Local Government Code § 214.001 et seq.

Sec. 18-386. - Created, composition—Building and standards commission.

There is hereby created the building and standards commission, composed of five members, which shall consist of the members of the zoning board of adjustment, and alternate members of the board of adjustment appointed by city council, who shall serve in the absence of one or more regular members when requested to do so by the city manager/designee. Persons appointed to the zoning board of adjustment shall also automatically be appointed to the building and standards commission, and such appointment shall constitute one position. Persons appointed to the zoning board of adjustment/building and standards commission shall hold no other position in the city government, and shall serve without pay. Each member shall be a qualified voter at the time of appointment and shall be a resident within the corporate limits of the City of Seabrook and shall have been a resident for a period of 12 months prior to appointment. The appointment of the members shall be for a term of two years or until replacements are appointed corresponding and indistinguishable with the requirements for the zoning board of adjustment.

(Ord. No. 2009-01, § 2, 2-3-2009)

Sec. 18-387. - Authority and purpose.

This division is remedial and essential to the public interest, safety, health, and welfare and it is intended that this chapter be liberally construed to effectuate its purposes. It establishes minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; materials or methods used to construct a building or improvements, including the foundation, structural elements, electrical wiring, plumbing, fixtures, entrances, or exits; addresses conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; and incorporates the building codes or other city codes and statutory provisions relating to the condition, use, or appearance of property within the city. The provisions of this chapter are hereby adopted pursuant the City Charter, and the Texas Constitution, Article XI, Section 5, and in accordance with V.T.C.A., Local Government Code chs. 54, 214 and 342.

The purposes of this chapter include, but are not limited to, the following:

- (1) To establish the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, regardless of the dates of construction, in order to safeguard the public health, safety, and welfare and to protect property.
- (2) To provide the authority to order and direct the method of securing property that is unoccupied by its owners, lessees, or other invitees, and which is unsecured from unauthorized entry to the extent that such buildings or structures could be entered or used by vagrants or other uninvited persons or could be entered or used by children.

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- (3) To provide the authority to address, and direct the method of addressing buildings and structures which, although boarded up, fenced, or otherwise secured in any manner, exhibit conditions that may constitute a danger to the public, even though secured from entry, or the means used to secure the building or structure is inadequate to prevent unauthorized entry or use of the building by vagrants or other uninvited persons or could be entered or used by children. The city may require the building or structure, which endangers the public health and safety of the occupants of said building and structure and the general public, to be vacated, secured, repaired, removed, and/or demolished by the owner and/or the occupants thereof to be relocated.
- (4) To provide fire safety of buildings or improvements, including provisions related to materials, types of construction or design, warning devices, fire suppression devices, availability of water supply for extinguishing fires, location, design or width of entrances or exits, and enforcement of all city building and fire codes.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-388. - Minimum building standards adopted—Investigation.

Any building or structure whose condition has deteriorated or is operated or maintained in violation of the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, as adopted and established in this chapter, is hereby subject to investigation upon presentation of evidence of probable cause to a magistrate by the code enforcement official, fire marshal, health officer or designated employee in accordance with Article 18.05 of the Texas Code of Criminal Procedure.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-389. - Dangerous buildings, structures and nuisances defined.

Any building or structure, regardless of date of its construction, having any of the following defects, shall be deemed to be substandard and/or unfit for human habitation and as a result, a danger to the public health, safety and welfare and thus, declared to be a dangerous building or structure:

- (1) Any building or structure that has become deteriorated or damaged such that its roof, walls, or flooring is not weathertight and waterproof.
- (2) Any building or structure that is so structurally deteriorated or damaged that it is in danger of collapse or that cannot be expected to withstand reasonably anticipated weather conditions, such as storms or hurricanes.
- (3) Conditions within any building or structure that violate any provision of the city's building, electrical, plumbing, fire, or other such codes, specifically including conditions subject to the city nuisance ordinances, when such nonconformity constitutes a danger to the public health, safety, and welfare, including any device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

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- (4) Any unsafe or defective electrical wiring, devices or equipment, or unsafe or defective gas piping or appliances that are apt to cause or promote fires.
- (5) Light, air or sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings occupying the premises.
- (6) Dilapidated, decayed, unsafe, unsanitary, or substandard conditions or any condition that fails to provide amenities essential to decent living so that the premises are unfit for human habitation, or are likely to cause sickness or disease, so as to cause injury to the public health, safety, and welfare.
- (7) Buildings and structures, regardless of their structural condition, that have been, during times that they were not actually occupied by their owners, lessees or other legal invitees, been left unsecured from unauthorized entry to the extent that they may be entered by vagrants or other uninvited persons as a place of harborage or could be entered by children.
- (8) Buildings and structures, which are secured by a means inadequate to prevent unauthorized entry or use in the manner described in subsection (7).
- (9) A wall or other vertical member that lists, leans or buckles to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- (10) Exclusive of the foundation, 33 percent or more damage or deterioration to the supporting member or members or 50 percent of damage or deterioration to the nonsupporting enclosing or outside walls or coverings.
- (11) An improperly distributed load upon the floor or roof, or an overloaded roof or floor, or a floor or roof with insufficient strength to be reasonably safe for the purpose used.
- (12) Inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, or fire escapes.
- (13) When a building which is partially constructed has not had any significant construction work done on it in the preceding six months, and it is not secured by a fence or other means to prevent children and vagrants from entering the building.
- (14) Parts of buildings and structures that may fall and injure a person or property.
- (15) Hazardous or unsanitary premises that have an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, rat harborages, stagnant water, combustible materials and similar materials or conditions that constitute fire, health or safety hazards in the opinion of the code enforcement official.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, changed the title of § 18-389 from "Dangerous buildings or structures defined" to "Dangerous buildings, structures and nuisances defined."

Sec. 18-390. - Declaration of nuisance; conduct prohibited.

Any building or structure which has any or all of the conditions or defects described above in section 18-389, where such condition or conditions pose a threat or potential threat to life, health,

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property, or human safety; or conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents, is hereby declared to be a public nuisance, is prohibited as unlawful, and shall be abated according to provisions of this division. It is an offense for an owner or occupant or other person having control of the building, structure or property to fail to abate such public nuisance. Therefore failure to abate such condition may also be prosecuted as a criminal misdemeanor offense. It is a further offense and unlawful for any person to cause, permit, or allow a dangerous building after the 30th day after the date on which the building and standards commission finds a condition of nuisance and orders abatement, or after such extended date as may be lawfully permitted by the building and standards commission.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-391. - Commencement of proceedings.

- (a) When the code enforcement official has determined that a building is a dangerous building, he/she will set a date and time for a public hearing before the building and standards commission to determine if the building complies with the minimum standards established in this article. The code enforcement official may seek voluntary compliance with the owner, lienholder or mortgagee of the building before seeking a hearing before the commission. If the code enforcement official receives voluntary compliance from the owner, lienholder or mortgagee, a public hearing is not required.
- (b) In addition, in accordance with V.T.C.A., Local Government Code § 214.0011, the code enforcement official may secure a building if it is determined it violates the minimum standards for use and occupancy of the building and is unoccupied or is occupied only by persons who do not have a right of possession if:
  - (1) Before the eleventh day after the building is secured, the owner is given notice in accordance with V.T.C.A., Local Government Code § 214.0011(c); and
  - (2) The building and standards commission conducts a hearing within 20 days after a request for hearing is filed by the owner, provided said request for hearing is filed within 30 days after the building is secured.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-392. - Notice of hearing before the building and standards commission.

Notice of all proceedings before the building and standards commission shall be given on or before the tenth day before the date fixed for hearing:

- (1) By personal delivery, by certified mail, return receipt requested, to the record owners of the affected property sent to the last known address, and each mortgagee, lienholder and each holder of a recorded lien against the affected property, as shown by the records of the county clerk in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing lien or other applicable instruments on file in the office of the county clerk.
- (2) To all unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front as practicable.

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- (3) The notice shall be mailed and posted before the tenth day preceding the date of the hearing before the building and standards commission and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion before the tenth day preceding the date fixed for the hearing.
- (4) The notice shall contain the following:
  - a. The name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the Office of the Harris County Clerk.
  - b. An identification, which is not required to be a legal description of the building and the property on which it is located.
  - c. A description of the violation of the municipal standards that is present at the building.
  - d. A statement that the city will vacate, secure, remove, repair or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
  - e. A statement that the owner, lienholder, or mortgagee will be required to submit proof, at the hearing, of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.
  - f. The time, date, and place of the hearing.
- (5) In addition, if the city files a notice in the official public records of real property for Harris County, Texas, or the where the real property is primarily situated pertaining to the hearing, as set forth above, the notice shall bind all subsequent holders of interest in the property, according to state law.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

#### Sec. 18-393. - Functions.

The building and standards commission panel may:

- (1) Order the repair, within a fixed period, of buildings found to be in violation of an ordinance.
- (2) Declare a building substandard in accordance with the powers granted by this article.
- (3) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist.
- (4) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the building and standards commission panel.
- (5) Determine the amount and duration of the civil penalty the city may recover in accordance with V.T.C.A., Local Government Code § 54.017. A determination of the subject civil penalty is final and binding and constitutes prima facie evidence of such penalty in a court of competent jurisdiction in a civil suit brought by the city for final judgment and may be enforced by the city



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secretary filing with the District Clerk of Harris County, Texas, a certified copy of the order of the building and standards commission panel establishing the amount and duration of the penalty.

(Ord. No. 2009-01, § 2, 2-3-2009)

Sec. 18-394. - Standards for repair, vacation or demolition.

- (a) *Ordered repaired.* If the dangerous building can be feasibly repaired or the condition remedied so that it will no longer exist in violation of this Code, it will be ordered remedied or repaired. Repairs are feasible only if less than 50 percent of the structure of the building must be repaired or replaced or the value of the structure is reduced by less than 50 percent because of the violations. Value may be determined by comparing the most recent valuation for the building by the Harris County Tax Appraisal District with the valuation of the building two years prior to the most recent valuation by the Harris County Tax Appraisal District.
- (b) *Ordered vacated and secured.* If the dangerous building is in such a condition as to make it hazardous to the health, safety, or general welfare of its occupants or the public, it will be ordered vacated and secured.
- (c) *Ordered demolished.* If more than 50 percent of a building is damaged, decayed or deteriorated, it will be ordered demolished or removed, unless the building and standards commission determines that the building can be feasibly repaired or the condition remedied. If a building cannot be repaired, it will be ordered demolished.

(Ord. No. 2009-01, § 2, 2-3-2009)

Sec. 18-395. - Building and standards commission hearing—Burden of proof.

In a public hearing to determine whether a building complies with the standards set out in this article the owner, lienholder, mortgagee, manager or occupant has the burden of proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work. After a public hearing, if a building is found to be in violation of this article, the building and standards commission may:

- (1) Enter on the minutes its findings that the building, or use thereof:
  - a. Is in violation of the minimum standards of this article in specified instances;
  - b. Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;
  - c. Is structurally sound but is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;
  - d. Is structurally sound, boarded up, fenced, or secured but constitutes a danger to the public or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants, children, or other uninvited persons;

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- e. Violates the minimum standards of this article and is unoccupied or is occupied only by persons who do not have a right of possession; or
  - f. Is dangerously damaged or deteriorated or is likely to endanger persons or property.
- (2) Make an order that:
- a. The building be secured from unauthorized entry;
  - b. The building be repaired, removed or demolished;
  - c. The building be vacated in whole or in part;
  - d. Any or all occupants be relocated;
  - e. Such other requirements deemed reasonably necessary, including the abatement of any nuisances caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents.
- (3) Time limits.
- a. An order shall require that a building shall be secured within 30 days.
  - b. An order shall require that a building must be repaired, removed or demolished within 30 days unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
  - c. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 30 days to repair, remove or demolish the building, the building and standards commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, mortgagee, manager or occupant to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
  - d. The building and standards commission may not allow the owner, lienholder, mortgagee, manager or occupant more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order of the building and standards commission unless the owner, lienholder, mortgagee, manager or occupant:
    - 1. Submits a detailed plan and time schedule for the work at the hearing; and
    - 2. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.
  - e. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 90 days to complete any part of the work required to repair, remove or demolish the building, the building and standards commission shall require the owner, lienholder, mortgagee, manager or occupant to regularly submit progress reports to the building and standards commission to demonstrate that the owner, lienholder, mortgagee, manager or occupant complied with the time schedules established by the building and standards commission for commencement and performance of the work. The order may require that the owner, lienholder, mortgagee, manager or occupant appear before the hearing panel to demonstrate compliance with the schedules.
  - f. In a public hearing to determine whether a building complies with the standards set out in this article the owner, lienholder, mortgagee, manager or occupant has the burden of

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proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work.

- g. Should an owner fail to comply with an order of the building and standards commission to repair, remove or demolish a building the commission may assess civil penalties against such owner upon notice and hearing. Such notice shall be given at least ten days prior to the hearing to determine whether or not civil penalties should be assessed.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

#### Sec. 18-396. - Procedure after hearing.

After the hearing before the building and standards commission, the city shall deliver a copy of the order by personal delivery or by certified mail, return receipt requested, to the record owners of the affected property and to any lienholder or mortgagee of the affected property. Within ten days after the date the order from the building and standards commission is issued the city will:

- (1) File a copy of the order in the office of the city secretary; and
- (2) Publish in the city's official newspaper a notice containing:
  - a. The street address or legal description of the property;
  - b. The date of the hearing;
  - c. A brief statement indicating the results of the hearing or order; and
  - d. Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 2009-01, § 2, 2-3-2009)

#### Sec. 18-397. - Enforcement—Expenses.

- (a) If an owner does not take the action ordered by the building and standards commission within the allotted time the code enforcement official shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building not previously served with the order.
- (b) If the owner, lienholder, mortgagee, manager or occupant should fail to comply with an order of the building and standards commission, the building and standards commission may, in addition to any other actions or remedies in this article, authorize the city to:
  - (1) Vacate, secure, remove or demolish the building.
  - (2) Relocate the occupants.
  - (3) Repair the building to the extent necessary to bring the building into compliance with the minimum standards.
- (c) The building and standards commission may authorize the code enforcement official to secure a building that violates the minimum standards and is unoccupied or is occupied only by persons who do not have a right of possession before notice and hearing.

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- (d) The building and standards commission may assess all expenses incurred by the city pursuant to the foregoing provisions against the owner of the property and the property. Said assessment of expenses shall constitute a privileged lien on the property subordinate only to tax liens and previously recorded bona fide mortgage liens, unless the property is a homestead protected by the Texas Constitution in accordance with V.T.C.A., Local Government Code ch. 214 and ch. 54.
- (e) The building and standards commission by order, may assess and recover a civil penalty against the property owner in an amount not to exceed \$1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10.00 per day for each violation, if the city proves:
  - (1) The property owner was notified of the requirements of this article and the owner's need to comply with the requirements; and
  - (2) After notification, the property owner committed an act in violation of this article or failed to take an action necessary for compliance with this article.
- (f) The city council hereby finds and declares that the general administrative expenses of inspecting buildings, conducting hearings, issuing notices and orders, together with associated administrative functions, require the reasonable charge of \$400.00 for each lot, adjacent lots under common ownership or tract of land. Such minimum charge is hereby established and declared to be the charge for such administrative expenses to be assessed in each instance where the building and standards commission determines that the building or structure is a dangerous building and the city has been required to proceed with notice and hearing as provided for in section 18-392, together with any additional charges as delineated in subsection 18-397(g). Notwithstanding any tabulation of recorded costs, a charge of \$400.00 is hereby expressly stated to be the minimum charge, unless otherwise determined by the building and standards commission. Further, the cost of securing, repairing, demolishing the building or buildings, either by the city or by persons doing so under contract with the city, shall be separately calculated and assessed in each instance where the city secures, repairs, demolishes or causes the demolition of a building or buildings pursuant to this article.
- (g) Any case referred to the building and standards commission for consideration shall also have attached as costs all expenses incurred by the city to research ownership and mortgagee/lienholder interests, as such research is required by state law to fix enforceable orders and liens. The city shall certify all administrative expenses and costs of securing, repairing, or demolishing a building or buildings by the city or by persons doing so under contract with the city, as a charge which shall be assessed the owner thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent per annum until paid. The amount of the assessment shall be subject to the same procedure and sale in case of delinquency as provided by the laws of the state.
- (h) If an order has been issued pursuant to this article for the repair, securing or demolition of a building or buildings and the city has let a contract for such work, and the building or buildings are subsequently repaired, secured or demolished by the owners prior to completion of the contracts let by the city, the administrative expenses and all costs for cancellation of the contract shall be certified as a charge which shall be assessed against the owners thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of six percent per annum until paid.
- (i) Upon a finding by the building and standards commission that a building is dangerously damaged or deteriorated, or is likely to endanger persons or property, the code enforcement official may

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place a placard notice on all dwelling units which the building and standards commission has determined to be dangerously damaged or deteriorated, or likely to endanger persons or property, with the following language:

DO NOT ENTER  
UNSAFE TO OCCUPY  
IT IS A MISDEMEANOR TO OCCUPY THIS  
BUILDING, OR TO REMOVE OR DEFACE THIS NOTICE.

BUILDING OFFICIAL  
CITY OF SEABROOK, TEXAS

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-398. - Offenses.

It is unlawful for the owner, occupant, lessees or manager of a building governed by this chapter to:

- (1) Permit a building to be in violation of any provision of this chapter;
- (2) Permit a building to exist in a dilapidated or substandard condition, or condition unfit for human habitation and a hazard to the public health, safety, and welfare;
- (3) Permit a building to be unoccupied and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;
- (4) Permit a building that is boarded up, fenced or otherwise secured to:
  - a. Constitute a danger to the public; or
  - b. Have inadequate means to secure the building from unauthorized entry or use.
- (5) Permit a building to be occupied only by persons who do not have a right of possession and violate any provision of this chapter;
- (6) Permit a building to exist in a dangerously damaged or deteriorated condition or in a condition likely to endanger persons or property;
- (7) Without authority from the code enforcement official or the fire marshal, he or she removes or destroys a placard placed pursuant to [subsection] 18-397(i) by such officials; or
- (8) As owner, operator, or manager of a building, he or she permits a person to occupy a building or room on which the code enforcement official or the fire marshal has placed a placard pursuant to [subsection] 18-397(i), or he or she occupies a building or room on which the code enforcement official or the fire marshal has placed such a placard, absent express authorization of the subject official(s).

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-399. - Demolition regulations extended to cover site clearance, leveling and grading.

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- (a) In addition to the building regulations contained in this article, the regulations concerning the demolition of buildings and permits therefore are extended to cover and include that:
- (1) All debris must be removed from the property, all holes or depressions in the ground must be filled to grade level.
  - (2) The grading and leveling and clearance of the site of the demolition where the removal of structures makes such grading, leveling or clearance necessary, or where such grading, leveling or clearance is necessary to protect adjacent property for the public safety. The grading and leveling shall include appropriate fill to insure proper drainage, and a permit shall be secured for any fill work if provided by city code.
  - (3) All lumber, pipes and all other building materials must be removed from the property.
  - (4) All pipes and conduits must be removed from above grade and must be removed or sealed below grade.
  - (5) All piers, pilings, steps, foundations, and other appurtenances must be removed from the property.
- (b) Each person having an interest in the building or control over the property on which the building stood prior to removal or demolition is individually responsible for completing this work.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-400. - Disconnecting public utilities.

The code enforcement official may request that public utilities be disconnected in order that demolition or other nuisance abatement actions may be accomplished without delay in those cases where the structure is open, vacant, dilapidated, or subject to any of the conditions defining public nuisance in this article.

(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-401. - Building and standards commission other remedies; chapters 54 and 214, Texas Local Government Code.

Nothing in this chapter shall preclude the city's pursuit of any and all other remedies allowed under civil and criminal law, or in equity, to address conditions which are treated in this chapter, under the theory of public nuisance and the abatement of dangerous buildings or structures. Neither shall the city be required, nor prohibited, to issue criminal citations before, after, or during any proceeding prescribed in this chapter.

Specifically, in addition to the provisions in this chapter and remedies afforded under V.T.C.A., Local Government Code ch. 54, Municipal Regulation of Structures, the city further asserts full authority to exercise its right to remedy under all provisions of the V.T.C.A., Local Government Code including, but not limited to, ch. 214, subchapter B, Municipal Health and Safety Ordinances, and ch. 342, Municipal Fire Protection, subchapter B, in prosecution of civil suits for enforcement, removal or destruction of buildings and structures, injunctive relief, and civil penalties to remedy conditions of public concern described in this chapter.

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(Ord. No. 2009-01, § 2, 2-3-2009; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-402. - Appeal to district court under substantial evidence rule; lien priority.

- (a) Any owner, lienholder, or mortgagee of record, aggrieved by an order of the building and standards commission under this division may file in district court a verified petition setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality. The petition must be filed within 30 calendar days after the respective dates a copy of the final decision of the building and standards commission is mailed to them by first class mail, certified return receipt requested, or such decision shall become final as to each of them upon expiration of each such 30-calendar-day period.
- (b) In any judicial contest challenging the city's rights under this division, the city shall pursue recovery of its attorney's fees as allowed by the Texas Local Government Code.
- (c) An aggrieved party's appeal from an order of the building and standards commission, when made to the district court, shall be limited, according to law, to a hearing under the substantial evidence rule, where under the court may reverse or affirm, in whole or part, the building and standards commission's decision. Accordingly, costs may not be allowed against the city.
- (d) The lien securing payment of civil penalties or the costs of repairs, removal, or demolition, as the case may be, is inferior only to any previously and duly recorded bona fide mortgage liens, as prescribed by state law. The city's lien is superior to all other previously recorded judgment liens, and shall accrue interest at the rate of ten percent a year, or as allowed by law, from the date of assessment until paid in full.

(Ord. No. 2009-01, § 2, 2-3-2009)

Secs. 18-403—18-415. - Reserved.

**Editor's note**— Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, repealed former div. 10, § 18-409, which pertained to energy conservation code adopted and derived from Code 1996, § 18-409 and Ord. No. 2002-02, § 2, adopted March 5, 2002.

ARTICLE V. - EXCAVATIONS<sup>[4]</sup>

Footnotes:

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**State Law reference**— Trench safety standards, V.T.C.A., Health and Safety Code § 756.021 et seq.

Sec. 18-416. - Findings of fact.

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The city council expressly finds as facts that:

- (1) Excavated areas or pits in the city will partially fill with water from seepage and surface drainage, which will in most cases become stagnant and disease/germ ridden.
- (2) When partially filled with water, such areas attract and invite people, particularly young people, for swimming, wading or related sports.
- (3) The use mentioned in subsection (2) of this section is a continuing danger to the health and safety of the participants and could thereby easily spread contagious diseases to others.
- (4) The city will, in all likelihood, continue to expand rapidly in population, requiring land suitable for residential and commercial construction on a large scale.
- (5) Residential and commercial property in reasonable proximity to such areas or pits will depreciate substantially in value.
- (6) The health, safety and general welfare of the public require the strict control of the excavation, operation and maintenance of such pits in order to prevent injury or damage to the public generally, or to such parts of the public as come in contact with such pits.

(Code No. 1976, § 9-1; Code 1996, § 18-416)

Sec. 18-417. - Statement of legislative intent.

It is declared to be the intention of the city council, by the enactment of this article, to keep intact and unimpaired the health and safety of the citizens of the city and to endeavor to prevent an activity that constitutes a continuing danger to the health, safety and general welfare of the public.

(Code No. 1976, § 9-2; Code 1996, § 18-417)

Sec. 18-418. - Pit excavations generally.

It shall be unlawful for any person, either as an owner of land or as a lessee, permittee, licensee, agent or representative of such owner or any other claimant or possessor of such land to remove or to excavate for the purposes of removal any sand, clay, fill dirt or other material of the soil from such land, unless the following are complied with:

- (1) He shall have first obtained a permit from the city council.
- (2) The area to be excavated shall be enclosed with a fence at least six feet in height from ground level, which shall be of chain link construction. The top of such six-foot fence shall be permanently crowned with two strands of barbed wire. Such fence shall be equipped with no more than two gates of like materials and height as the fence. When such pit is unattended, such gates shall be closed and secured by lock and key.
- (3) The area to be excavated shall not exceed five acres and shall be excavated to a depth not to exceed 20 feet.
- (4) The excavation shall proceed from the center outward to the perimeter of the total permitted excavation. When the excavation has extended to within 50 feet of the perimeter, a gradual



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slope shall be formed on a grade of not to exceed six inches rise per foot of distance, until the ground level is reached at the perimeter.

- (5) No pit operations shall be permitted where the perimeter of the area to be excavated is within 500 feet of any existing dwelling house or residential lot which is a part of a subdivision duly plotted and approved by the city.
- (6) Such areas or pits must be continuously drained or pumped as necessary, so as to be free from standing water.
- (7) All city streets used in the transporting of removed soil materials shall be maintained by the owner or operator free from holes, ruts or damage to hard-surfaced roadways. Any such damage shall be repaired forthwith by the owner or operator, at no expense to the city.
- (8) All excavated areas maintained in the city and excavations performed within the city shall be in conformity with state and federal standards.

(Code No. 1976, § 9-3; Code 1996, § 18-418)

**State Law reference**— Municipality may adopt ordinance denying permit to a person who fails to certify that certain safety requirements have been satisfied before excavation begins, V.T.C.A., Health and Safety Code § 756.022.

Sec. 18-419. - Removal of material from existing pits.

- (a) It shall be unlawful to remove or to excavate for the purpose of removal any sand, clay, fill dirt or any other material of the soil from any existing pit within the city, as long as the operator thereof is in noncompliance with subsections 18-418(2), (4), (6) and (7).
- (b) Upon written notice of noncompliance to the operator of any existing pit pursuant to subsection (a) of this section, such operator shall have a period of 30 days from the date of such notice to comply with the provisions of this article applicable to existing pits.

(Code No. 1976, § 9-4; Code 1996, § 18-419)

Secs. 18-420—18-445. - Reserved.

#### ARTICLE VI. - FILLING OF LAND

Sec. 18-446. - Penalty.

Any person raising or filling land in violation of this article, without a valid permit, using unauthorized fill material, failing to comply with application and permit requirements, failing to comply timely with the compaction requirements or the covering requirements shall, upon conviction, be punished as provided in section 1-15. Violations of this article allowed by the property owner or

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permittee constitutes a violation by the property owner or permittee. A permit may be canceled by the building official for violation of any provision of this article.

(Code No. 1976, § 13-45; Code 1996, § 18-447)

Sec. 18-447. - Permit and fee.

No property shall be raised or filled without a permit therefor being first obtained from the city building official. Upon application, the permit may be granted for a period up to six months and may be renewed by the building official for additional periods not exceeding six months each. It shall be the responsibility of the individual applying for the permit to secure the proper federal and state permits. A fee, which is established by ~~resolution of the city council~~ **in Appendix B – Master Fee Schedule**, payable to the city, shall accompany each application for an original permit or renewal thereof.

(Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

Sec. 18-448. - Preservation of wetlands.

On projects requiring the mitigation of wetlands, permits will be issued only if the required mitigation is done within the corporate limits of the city unless determined impracticable by city council.

(Ord. No. 2006-10, § 2, 2-6-2007; Ord. No. 2011-04, § 1(Exh. A), 4-5-2011)

**Editor's note**— Former § 18-449.

Section 1(Exh. A) of Ord. No. 2011-04, adopted April 5, 2011, repealed the former § 18-448, which pertained to specifications and derived from Code 1976, § 13-44; Code 1996, § 18-448.

Secs. 18-449—18-499. - Reserved.

#### ARTICLE VII. - FAIR HOUSING REQUIREMENTS

Sec. 18-500. - Declaration of policy.

It is hereby declared to be the policy of the city to bring about through fair, orderly and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, religion, sex, national origin, physical or mental handicap, or familial status.

It is further declared that such policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, religion, sex, national origin, physical or mental handicap, or familial status and further that the denial of such rights through considerations based on these protected classes is detrimental to the health, safety and welfare of the inhabitants of

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the city and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-501. - Definitions.

As used in this article, the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context requires otherwise:

*City manager* means the city manager or authorized assistant.

*Discriminatory housing practice* means an act which is unlawful under this article.

*Dwelling* means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more persons and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure or portion thereof.

*Family* means a single individual or a group of individuals living together under one common roof.

*Major life activities* means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

*Person* means one of more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

*Physical or mental handicap* means any physical or mental impairment which substantially limits one or more major life activities.

*Physical or mental impairment* shall include:

- (1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one of more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

*Senior adult* means a person 55 years of age or older.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-502. - Interpretation and effect.

This article shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title VIII of the Civil Rights Act of 1968, as amended or the Federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall

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retain the rights granted to them to Title VIII of the Civil Rights Act of 1968, as amended and the Federal Equal Credit Opportunity Act. In construing this article, it is the intent of the city council that the courts shall be guided by Federal Court Interpretations of Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-503. - Discrimination in the sale or rental of housing.

Except as exempted by section 18-507 it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, physical or mental handicap, or familial status.
- (2) To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, sex, national origin, physical or mental handicap, or familial status.
- (3) To make, print or publish or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation of discrimination based on race, color, religion, sex, national origin, physical or mental handicap, or familial status, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, color, religion, sex, national origin, physical or mental handicap, or familial status, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, physical or mental handicap, or familial status.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-504. - Discrimination in housing financing.

It shall be unlawful for any bank, building and loan association, insurance company, or other person whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, national origin, physical or mental handicap, or familial status of such person or such persons associated therewith or because of the race, color, religion, sex, national origin, physical or mental handicap, or familial status, of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

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(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-505. - Discrimination in providing brokerage service.

It shall be unlawful for any person to deny another person access to membership in, or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling and renting dwellings or to discriminate against another person in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, national origin, physical or mental handicap, or familial status.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-506. - Unlawful intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because such individual, group, or business has complied with the provisions of this ordinance or has exercised in good faith rights under this ordinance, or has enjoyed the benefits of this article, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith in any manner in any investigation, or in any proceeding hereunder or has made any report to the city manager.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-507. - Exemptions and exclusions.

(a) Nothing in this article shall apply to:

(1) Any single-family house sold or rented by an owner, provided that:

- a. Such private individual owner does not own more than three single-family houses at any one time; and
- b. If the owner does not reside in the house at the time of the sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; and
- c. Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; and
- d. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
- e. The sale or rental is made without the publication, posting or mailing of any advertisement or written notice in violation of this article; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

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- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:
  - (1) He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - (2) He has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - (3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.
- (c) Nothing in this article shall prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to person of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, physical or mental handicap, or familial status.
- (d) Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members.
- (e) Nothing in this article shall bar any person from owning and operating a housing accommodation in which rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.
- (f) Nothing in this article shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, religion, sex, national origin, physical or mental handicap or familial status.
- (g) Nothing in this article shall bar a person who owns, operates or controls rental dwellings whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this article.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-508. - Violations.

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No person shall violate any provision of this article, or knowingly obstruct or prevent compliance with this article.

(Ord. No. 2011-19, § 2, 10-18-2011)

Sec. 18-509. - Enforcement.

- (a) *Generally.* The city manager shall have the responsibility of administering and implementing this article. The city manager may delegate the authority to investigate and conciliate complaints to other designated city employees.
- (b) *Complaints—Generally.*
  - (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the "charging party") may file a complaint with the city manager. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The city manager shall prepare complaint forms and furnish them without charge to any person, upon request.
  - (2) The city manager shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.
  - (3) All complaints shall be filed within 180 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the city manager shall provide notice of the complaint by furnishing a copy of such complaint to the person named therein (hereinafter referred to as the "respondent") who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an answer to the complaint within 15 days of receipt of the written complaint.
  - (4) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
  - (5) If at any time the city manager shall receive or discover credible evidence and shall have probably cause to believe that any person or persons have committed a discriminatory housing practice as to which no complaint has been filed or is about to be filed, the city manager may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.
- (c) *Investigation and conciliation.*
  - (1) Upon the filing or referral of a complaint as herein provided, the city manager shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigative purposes, the city manager or an investigator shall have personally reviewed with the charging party the allegations contained therein and shall have determined that said charge comes within the provisions of this article.

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In the event such review results in the determination that a particular charge does not come within the provisions of this article, the charging party shall be given a clear and concise explanation of the reasons why it does not.

- (2) If the city manager determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the city manager shall take no further action with respect to that alleged offense.
- (3) During or after the investigation, but subsequent to the mailing of the notice of complaint, the city manager shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and to obtain adequate assurance of future voluntary compliance with provisions of this article. Nothing said or done in the course of such informal endeavors may be made public by the city manager, the commission, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding without the written consent of all persons concerned.
- (4) Upon completion of an investigation where the city manager has made a determination that a discriminatory housing practice has in fact occurred, if the city manager is unable to secure from the respondent an acceptable conciliation agreement, then the city council must, upon a majority vote, refer the case to the city attorney for prosecution in municipal court or to other agencies as appropriate. With such recommendation of the city manager and the referral of the city council, the city manager shall refer his entire file to the city attorney. The city attorney shall, after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court.

(Ord. No. 2011-19, § 2, 10-18-2011)