

TITLE VII: TRAFFIC CODE

CHAPTER 70: GENERAL PROVISIONS

Sec. 70.10 MOTOR VEHICLES: ACCELERATING OR OPERATING IN MANNER THAT CAUSES TIRES TO BREAK TRACTION OR TO LEAVE THE PAVEMENT.

- (A) The following activities are prohibited and subject to the penalty set forth in Section 70.99.
 - (1) Accelerating or operating a motor vehicle in any manner which causes the tires to break traction with the pavement; or
 - (2) Accelerating or operating a motor vehicle in any manner which causes one or more tires to leave the pavement while the motor vehicle is in motion.
- (B) The provisions of this section shall apply to a motor vehicle operated on any street, alley or other public way within the jurisdiction of the City, and to a motor vehicle operated on any private property within the jurisdiction of the City that is open to members of the general public and is not part of an auto racing facility approved by the City.

Sec. 70.11 ABANDONED VEHICLES.

- (A) A motor vehicle is abandoned if the motor vehicle:
 - (1) is inoperable, is more than five years old and has been left unattended on public property for more than 48 hours;
 - (2) has remained illegally on public property for more than 48 hours;
 - (3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
 - (4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;
 - (5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or
 - (6) is considered an abandoned motor vehicle under Section 644.153(r) of the Texas Transportation Code.
- (B) In this section, "controlled access highway" has the meaning assigned by Section 541.302 of the Texas Transportation Code.
- (C) It shall be unlawful for any person to leave, park, or stand any vehicle, truck, trailer, recreational vehicle or other personal property upon any public property or right-of-way in such a manner as to block the flow of traffic. The City shall have the authority to immediately remove or caused to be removed any items left on public property or right-of-way that is an obstruction to traffic.

Sec. 70.12 AUTHORITY TO TAKE ABANDONED VEHICLE INTO CUSTODY

- (A) A law enforcement agency may take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property.
- (B) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency under this subchapter.

Sec. 70.13 TAKING ABANDONED MOTOR VEHICLE INTO CUSTODY: NOTICE.

- (A) A law enforcement agency shall send notice of abandonment to:
 - (1) the last known registered owner of each motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031, of the Transportation Code; and
 - (2) each lienholder of record:
 - a. under Chapter 501 for the motor vehicle;
 - b. with the Federal Aviation Administration or the secretary of state for the aircraft; or under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.
- (B) A law enforcement agency that takes into custody an aircraft shall contact the Federal Aviation Administration in the manner described by Section 22.901, Transportation Code to attempt to identify the owner of the aircraft before sending the notice required by Subsection (A).
- (C) The notice under Subsection (A) must:
 - (1) be sent by certified mail not later than the 10th day after the date the agency:
 - a. takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody; or
 - b. receives the report under Section 683.031, Transportation Code;
 - (2) specify the year, make, model, and identification number of the item;
 - (3) give the location of the facility where the item is being held;
 - (4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:
 - a. towing, preservation, and storage charges; or
 - b. garagekeeper 's charges and fees under Section 683.032, Transportation Code and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), Transportation Code the delinquent administrative penalty and costs; and
 - (5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:
 - a. a waiver by that person of all right, title, and interest in the item; and
 - b. consent to the sale of the item at a public auction.

- (D) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, aircraft, watercraft, or outboard motor was abandoned is sufficient notice under this section if:
 - (1) the identity of the last registered owner cannot be determined;
 - (2) the registration has no address for the owner; or
 - (3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.
- (E) Notice by publication:
 - (1) must be published in the same period that is required by Subsection (C) for notice by certified mail and contain all of the information required by that subsection; and
 - (2) may contain a list of more than one abandoned motor vehicle, aircraft, watercraft, or outboard motor.
- (F) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (A), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the Texas Department of Motor Vehicles for the disposal of the vehicle.
- (G) In addition to the notice required under Subsection (A), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify any person who has filed a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

Sec. 70.14 STORAGE, AUCTION, PROCEEDS AND USE OF ABANDONED VEHICLES

The storage, auction, proceeds from auction and use of abandoned vehicles shall comply with Section 683.013, Section 683.014, Section 683.015, and Section 683.016, of the Transportation Code.

CHAPTER 72: STOPPING, STANDING AND PARKING

Sec. 72.11 IMPOUNDMENT OF ILLEGALLY PARKED VEHICLES.

- (A) Any official of the City, or any peace officer, or any agent of the City is given authority to tow or cause to be towed to the City impound lot or other place designated as an impound lot, any vehicle, recreational vehicle, or trailer which is parked in violation of any of the provisions of this title or any other ordinance of the City and there kept until its redemption shall be made by the owner or his duly authorized agent after payment to the City the sum of \$100.00, together with all other costs of removal and storage that may have accrued thereon. If any vehicle, recreational vehicle, or trailer is stored on the City impound lot, the storage fee shall accrue at \$20.00 per calendar day.

- (B) The remedy and impounding fee and costs provided for in this section shall be cumulative and shall not relieve any person from prosecution for violating any provision of this title or any other ordinance of the City.

Sec. 72.13 RESIDENTIAL PARKING RESTRICTIONS.

- (A) Definition. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) Adjacent to residential area - Any public property or right-of-way abutting real property which is contiguous to any residentially zoned property.
- (2) Recreational Vehicle – Any motorhome, campervan, travel trailer, camper trailer, fifth-wheel trailer, popup camper or truck camper with living quarters designed for temporary accommodation.
- (3) Residential Area - Property zoned as single-family dwelling district, two-family dwelling district, or apartment house district as established by the zoning regulations of the City in Chapter 154 of this code of ordinances.
- (4) Trailer - A cargo trailer, boat trailer, stock trailer, utility trailer, vehicle hauling trailer, dump trailer or any other type of vehicle with wheels that is not self-propelled.

- (B) Restrictions.

- (1) Except as provided by Section 72.13 (B)(3), it shall be unlawful for any person to leave, park, or stand any trailer or vehicle, other than a passenger car or motorcycle, upon any public property or right-of-way, within or adjacent to a residential area. This section shall not prevent the parking or standing of a trailer or vehicle within residential areas for the purpose of expeditiously loading or unloading passengers or property.
- (2) It shall be unlawful for any person to leave, park or stand any recreational vehicle upon any public property or right-of-way, within or adjacent to a residential area abutting real property not owned or occupied by the person.
- (3) It shall be unlawful for any owner or occupant to cause, permit, allow, or suffer any recreational vehicle owned by such owner or occupant, or by an invited guest, to be left, or parked or standing on public property or right-of-way abutting the real property owned or occupied by such owner or occupant, for any period of time, on three (3) or more calendar days within any thirty (30) day period.
- (4) It shall be unlawful for any person to leave, park or stand, upon any public property or right-of-way, any vehicle when the vehicle does not have lawfully affixed thereto a valid license plate(s) or registration windshield sticker for the current registration period.
- (5) It shall be unlawful for any person to cause, allow, permit, or suffer any motor vehicle or trailer to be or remain parked, upon any street or public right-of-way, within ten feet of any mailbox between 9:00 a.m. and 5:00 p.m. on regular mail delivery days.

- (6) It shall be unlawful for any person to leave, park or stand any vehicle, recreational vehicle, bicycle, trailer, or personal property in a manner prohibited by Texas Transportation Code, Chapter 545, Subchapter G.
- (C) In the event this section conflicts with any existing section of this code of ordinances, this section shall prevail.

TITLE IX: GENERAL REGULATIONS

CHAPTER 93: FIRE PROTECTION AND PREVENTION

Sec. 93.99 PENALTY.

It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any of the provisions of this chapter. Each day that a violation occurs or is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in Sec. 10.99 of this code.”

CHAPTER 96: HEALTH AND SAFETY

GENERAL PROVISIONS

Sec. 96.01 DEFINITIONS.

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

Abandoned Nuisance Vehicle - is a motor vehicle that is at least 10 years old and is of a condition only to be demolished, crushed, or dismantled.

Alley – is an unnamed public right-of-way that is designed to serve as utility access or secondary means of pedestrian or vehicular access to the rear or side of those properties whose principal frontage is on some other street.

Antique Vehicle – is a passenger car or truck that is at least twenty-five (25) years old with a valid Antique plate issued by the Texas Department of Motor Vehicles affixed to the vehicle and the vehicle is used solely for exhibition, club activities, parades and other functions of public interest and the vehicle is not used for daily transportation except when routine maintenance is needed.

Home Composting – is the decomposition, land application and mulching of non-industrial organic material, such as grass clippings, leaves, brush, clean wood material or vegetative food material, generated by a homeowner, tenant of a single or multi-family residential or apartment complex, or a commercial or institutional complex where the composting, land application or mulching occurs on the dwelling property and the final product is utilized on the same property. Home composting includes neighborhood composting demonstration sites which generate less than 50 cubic yards of final product per year.

Cultivated Agricultural Property – property that has been granted an agricultural use designation by the Johnson County Central Appraisal District pursuant to the state property tax code and on which a crop is growing that is recognized by the county agricultural extension office or its successor designee as a viable crop for the Johnson County area.

Degradable - material that will undergo a process of deterioration or breaking-up by the action of natural forces such as air, light, water or microorganisms. Degradable materials include, but are not limited to food products, wood, paper, cloth, wool, gypsum, and certain plastics.

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

Graffiti – any unauthorized inscription, word, signature, symbol, design, or other marking of any sort that is etched, written, painted, drawn, or applied in any other way to any structure, building, tree, vehicle, or property of any sort, or to any portion or element thereof.

Junk – all worn-out, worthless, an discarded material, in general, including but not limited to old iron or other metal, glass, paper, cordage, or other waste or discarded materials.

Junked Vehicle – a motor vehicle that is self-propelled and:

- (1) Displays an expired license plate or does not display a license plate; and
- (2) Is:
 - a. Wrecked, dismantled or partially dismantled, discarded or not capable of passing a state motor vehicle inspection; or
 - b. Inoperable and has remained inoperable for more than:
 1. Seventy-two (72) consecutive hours, if the vehicle is on public property; or
 2. Thirty (30) consecutive days, if the vehicle is on private property.

For purpose of this division, junked vehicle also includes:

- (1) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
- (2) A watercraft that does not have lawfully on board an unexpired certificate of number and is not a watercraft described by section 31.055, Texas Parks and Wildlife Code.

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

Motor Vehicle - a motor vehicle subject to registration under the Certificate of Title Act,

V.T.C.A., Transportation Code § 501.001 et seq.

Motor Vehicle Collector – the owner of one or more antique or special interest vehicles who acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Noxious and Invasive Plants - any plant that has a serious potential to cause economical or ecological harm to the agriculture, horticulture, native plants, ecology or waterways of Texas. Noxious and invasive plants shall be those plants identified by the Texas Department of Agriculture as noxious or invasive and shall include, but not limited to, Golden Bamboo and other species of bamboo which are deemed to be invasive to adjoining properties.

Nuisance - a thing, act, occupation, condition or use of property which substantially interferes with the use and enjoyment of another's property or threatens the health, morals, safety, comfort, convenience, or welfare of the community.

Person – any natural person, association of persons, partnership, corporation, agent, or officer, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators, parents, and guardians.

Refuse – all waste materials defined as garbage or rubbish by the IPMC.

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

Tarpaulin (Tarp) – a protective covering made of plastic, or other waterproof material used to overlay and protect items from moisture.

Watercraft - a vessel subject to registration under V.T.C.A., Parks and Wildlife Code § 31.01 et seq.

Sec. 96.02 NUISANCES ENUMERATED

The following specific acts, conditions, and objects are declared to constitute a nuisance and are hereby prohibited and made unlawful within the jurisdiction of the City of Cleburne. The jurisdiction for the enforcement and abatement of nuisance violations shall include the corporate city limits of Cleburne and all areas within 5,000 feet of the corporate city limits of Cleburne:

- (1) Any public nuisance known at common law or equity;
- (2) Whatever renders air, food or drink unwholesome or is detrimental to health, safety and welfare of the public;
- (3) Noxious and unreasonable odors created by chemicals, decomposing organic matter, or confined animal feeding operations;
- (4) Throwing, placing, or depositing in any well, cistern, tank, fountain, spring, lake, waterway or any other place containing water, any substance or liquid that may pollute, poison, or render unwholesome the water therein;

- (5) Keeping, storing or maintaining a junked vehicle in violation of this code;
- (6) Obstruction of streets or sidewalks by trees, hedges, or shrubs defined in Section 99.07 of this code;
- (7) Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
- (8) Keeping, storing, or accumulating rubbish, including newspapers, refrigerators, stoves, furniture, tires, and cans, on premises unless the rubbish or object is completely enclosed in a building;
- (9) Allowing or permitting any carrion, filth, manure, or any other impure, unsanitary, or unwholesome matter of any kind to accumulate or remain on a premises;
- (10) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;
- (11) Creating or maintaining an attractive nuisance, which may be detrimental to children whether in a building, on the premises, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, septic tanks, or excavations; abandoned refrigerators or motor vehicles; or any lumber, trash, debris, or vegetation which may prove a hazard for inquisitive minors;
- (12) Maintaining a property with excessive weed or plant growth;
- (13) All noxious and invasive plants;
- (14) Diseased or dead trees constituting a hazard to safety, health, or public welfare;
- (15) Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
- (16) Overcrowding a dwelling with occupants;
- (17) Creating or maintaining a defective sidewalk on a public right of way;
- (18) A structure, basin chamber, pool or tank located indoors or outdoors containing an artificial body of water intended to be used for swimming, diving or recreational bathing, including spas or hot tubs, which becomes unfit to be used for the purpose intended;
- (19) Creating or maintaining on any property, a swimming pool, spa or hot tub that does not comply with the most currently adopted International Property Maintenance Code;
- (20) Maintaining a flea market in a manner that constitutes a fire hazard;
- (21) Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the City to improve or maintain a drainage easement;
- (22) Drilling or operating a water well in violation of Chapter 36, Texas Water Code;

- (23) Discarding refuse on property that is not authorized for that activity;
- (24) The presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (25) A condition or place in a populous area that is a breeding place for flies;
- (26) Spoiled, diseased, decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (27) A restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (28) Sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons. Home composting in compliance with Rule 332.4 of the Texas Administrative code is permitted;
- (29) An object, place, or condition that is a possible and probable medium of disease transmission to or between humans;
- (30) A vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (31) A collection of water in which mosquitoes are breeding or a collection of water that is a breeding area for mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;
- (32) Nuisance personal property as defined in Section 96.75 of this code.

Sec. 96.03 TARPULIN USE.

- (A) Tarpaulins used for covering a vehicle, boat, trailer or other item and visible from the public right of way shall not be torn, defective or worn and shall be fitted and manufactured for the vehicle or item covered.
- (B) It shall be unlawful for any person to utilize a tarpaulin, which is visible from the public right of way, on a building or structure for a period longer than thirty (30) days.
- (C) Tarpaulins may be used for temporary screening purposes but shall not remain in place longer than seventy-two (72) hours in any thirty (30) day period.

Sec. 96.04 WATER POLLUTION GENERALLY.

- (A) The City Council finds and determines that:
 - (1) The City operates and maintains a storm sewer system in the city, and the water from such storm system is discharged into the Brazos River Watershed;
 - (2) The City has been charged by the Texas Water Quality Board with the responsibility for abatement of water pollution in streams and watercourses within the

jurisdiction of the City and the City finds it necessary to control such material and substances that will adversely affect the quality of effluent waters being discharged to the Brazos Watershed; and

(3) The City has determined that certain substances and materials are contributing pollutant to the Brazos River Watershed and other adequate means are available for the proper disposal of such materials and substances.

(B) The City Council finds that the following acts will adversely affect the quality of water in the storm drainage system and watercourses within the jurisdiction of the City, and it shall be unlawful for any person, firm, or corporation to commit any of the acts listed below:

(1) Dumping of grass clippings, leaves, brush, or any debris to curb, gutter, storm inlet, storm drain, or watercourse is prohibited;

(2) Allowing crankcase drainings, vehicle engine wash, or other oils, greases, or like material to drain to the storm system or watercourses;

(3) Allowing liquid, semi-liquid, or chemical waste to be deposited in an area that will drain to the storm system or watercourses;

(4) Allowing grease and sand traps from automotive centers, service stations, and vehicle wash operations to be connected to or to drain to the sanitary sewer, storm system, or watercourses;

(5) Allowing effluent from vehicle wash operations of bus and truck lines operating more than two vehicles to be trapped and placed or drained to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code;

(6) Allowing effluent from aircraft washing to be trapped and placed or drained to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code;

(7) Allowing cooling tower, compressor, or boiler blowdown water that is not clean water to flow or drain to the storm system or watercourses;

(8) Allowing water from nurseries to flow to streets or alleys to the extent that it causes standing water, damage to streets or alleys, or interference with the free passage of foot traffic;

(9) Allowing animal pens from a kennel, animal hospital, parking house, poultry processing plant, or dairy to connect or drain to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code; and

(10) Dumping ready-mixed concrete, mortar, and asphalt base material in or on any area that will drain to the storm system, watercourses, or streams.

Sec. 96.05 LITTER.

(A) It shall be unlawful for a person to place litter in a public receptacle or in an authorized private receptacle in such a manner as to allow the litter to be carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

(B) It shall be unlawful for a person to throw or deposit, or caused to be thrown or deposited, any commercial or noncommercial handbill in or upon any sidewalk, street, or other public place.

(C) It shall be unlawful for a person to throw out, drop, or deposit, or cause to be thrown out, dropped, or deposited, from any aircraft any litter, handbill, or any other object upon any public or private property.

Sec. 96.06 DEAD OR DISEASED BRUSH, VEGETATION AND TREES

(A) It shall be unlawful for a person permit dead or diseased brush, vegetation or trees to remain on a property. The City shall have the right to cause the removal of any dead or diseased brush, vegetation or tree on private property.

(B) If a dead or diseased tree constitutes a hazard to life and/or property, or harbor insects or disease which constitute a potential threat to other trees within the jurisdiction of the City, the City may order the immediate removal of the tree or cause the tree to be removed and charge the cost of the removal to the property owner.

(C) Compliance and notice will be in accordance with Section 96.32 and Section 96.33 of this code.

Sec. 96.07 DEFECATING OR URINATING IN PUBLIC PLACES.

It shall be unlawful for a person to defecate or urinate upon any street, alley, park, or any public grounds or upon any place visible from any public grounds.

Sec. 96.08 SLEEPING IN PUBLIC PLACES.

Except where specifically allowed by City ordinance, it shall be unlawful for a person to sleep upon public grounds. It shall be unlawful for a person to lay or sleep on any alley, street, or sidewalk.

Sec. 96.09 LEAKING FLUIDS.

It shall be unlawful for a person to allow any liquid, other than clean water, to be dropped, to fall, or to leak from any vehicle upon any street, alley, or other public way or upon the private property of any person without his effective consent.

Sec. 96.10 SLAUGHTERING ANIMALS PROHIBITED.

(A) The slaughter or butcher of an animal or fowl must not be in public view.

(B) To prevent odor and attraction of scavengers or pests, all waste material produced from the slaughter or butcher of an animals, fish or fowl (blood, hide, pelt, skin, feathers, entrails, scales, bones, feet, head, carcass, etc.) must be placed in sealable containers or

double bagged in plastic bags of sufficient size and strength to contain the waste material.

- (C) Waste material from the slaughter or butcher of animals, fish or fowl shall not be stored in public view and shall be disposed of per City ordinance.

Sec. 96.11 HAULING DEAD CARCASSES.

It shall be unlawful to haul, carry, or transport any slaughtered or dead animals or meat on, along, or upon any street, alley, highway, park, or other public grounds within the jurisdiction of the City without having the same covered and protected from public view and screened from insects, germs, and dust.

Secs. 96.12 – 96.29 RESERVED.

PROHIBITED CONDITIONS ON PRIVATE PREMISES

Sec. 96.30 CONDITIONS PROHIBITED.

It shall be unlawful for a person, firm, or corporation owning, occupying, or having control of property within the jurisdiction of the City, whether occupied or unoccupied, to permit the following conditions on said property:

- (1) To allow graffiti that is visible from public view or any private property other than that on which the same exists;
- (2) To allow toilet facilities which are accessible to the public or employees in a business to become foul, nauseous or offensive, or neglect or fail to abate the foul, nauseous or offensive condition by cleaning, disinfecting or other proper action, as may be ordered by the City;
- (3) To allow, keep, or operate, or suffer or permit to exist, any slaughter house, butcher pen, or other place where animals, fowls, or birds are slaughtered or killed on any premises not zoned for such use;
- (4) To allow or to burn in the open air, hair, leather, rags, or any other substance that emits an offensive, unhealthful, or annoying smell, smoke, or odor.

Sec. 96.31 DUTY OF OWNER, OCCUPANT, AND THE LIKE.

- (A) It is the duty of a person, firm, or corporation owning, occupying, or having control of property within the jurisdiction of the City to prevent or to remove, or cause to be removed, any of the conditions described in Sec. 96.02 through 96.30 of this chapter.
- (B) This section shall not apply to natural waterways maintained by the City.

Sec. 96.32 COMPLIANCE.

It shall be unlawful for any person, firm, or corporation to maintain any property within the jurisdiction of the City, in violation of Sec. 96.02 through 96.30 of this chapter. When the City

is made aware of a violation of this section, the City may, simultaneously and without limitation, pursue one or more of the following remedies:

- (1) Work with the violator to resolve the matter;
- (2) Issue a citation before or after taking action or providing notice to abate the violation; or
- (3) Pursue the abatement of the violation by following the procedures set forth in this chapter.

Sec. 96.33 ABATEMENT OF PROHIBITED CONDITIONS.

(A) If the owner of property within the jurisdiction of the City does not comply with Sec. 96.31 of this chapter, the City may give notice to the owner in accordance with to remove the violation on the property within a fixed period of time.

(B) The notice must be given:

- (1) Personally to the owner in writing;
- (2) By letter, sent certified mail, return receipt requested, addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
- (3) If personal service cannot be obtained:
 - (a) By publication at least once;
 - (b) By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (c) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(C) If the City mails a notice in accordance with Subsection (B)(2), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

(D) If the owner of property within the jurisdiction of the City does not remove the violation on the property within seven (7) days of notice of a violation, the City may abate the violation or make the improvements required and pay for the abatement and/or work and charge the expenses to the owner of the property.

Sec. 96.34 NOTICE FOR ABATING CONTINUING VIOLATIONS.

(A) In a notice provided under Sec. 96.33 of this chapter, the City may inform the owner by regular mail and a posting on the property, or by personal delivery of the notice, that if the

owner commits another violation of this chapter of the same kind or nature on or before the first anniversary of the date of the notice, the City, without further notice, may abate the violation at the owner's expense and assess the expense against the property.

(B) If a violation covered by a notice under this section occurs within the one-year period and the City has not been informed in writing by the owner of an ownership change, then the City, without notice, may take any action permitted by Sec. 96.33(D) of this chapter and assess its expenses as provided by Sec. 96.35 of this chapter.

Sec. 96.35 ASSESSMENT OF EXPENSES – LIEN.

(A) The City may assess the expenses incurred under Sec. 96.33(D) against the real property on which the work is done or improvements made.

(B) The City shall first send a notice of the expenses to the owner of the property on which the work is done or improvements made. The notice must:

- (1) Identify the property on which the work was done or improvements made;
- (2) Describe the violation that existed on the property;
- (3) A statement that the City abated the violation;
- (4) A statement of the amount of the City's expenses for the work done or improvements made. Expenses shall include a nuisance abatement fee of \$100;
- (5) A statement advising the owner of the right to request a hearing on the validity of the expenses for the work done or improvements made; and
- (6) A statement that if the owner fails or refuses to pay the expenses within thirty days after the first day of the month following the month in which the work was done or the improvements were made, the City shall obtain a lien against the property by filing with the county clerk of Johnson County a notice of lien and statement of expenses.

(C) The owner of the property shall be entitled to a hearing before the city manager or his designee to review the validity of the expenses if the owner requests a hearing by filing a written request with the city manager within ten days of the owner's receipt of the notice of the expenses.

(D) If the owner of the property properly requests a hearing, the city manager or his designee shall conduct a hearing within ten days of receipt of the request. At the hearing, the city manager or his designee shall allow the owner of the property, city staff, and any other person that the city manager or his designee determines may have testimony that will assist in reviewing the validity of the expenses to testify. The city manager or his designee may affirm or modify the expenses based on the evidence presented at the hearing.

(E) If no hearing is requested, or a hearing is held and the expenses are determined to be valid after the hearing, the owner shall pay the expenses within 30 days after the first day of the month following the month in which the work was done or the improvements were made.

(F) If the owner fails or refuses to pay the expenses as required by subsection (E), the City shall have a lien on the property upon the filing of a notice of lien and statement of expenses with the county clerk of Johnson County. The lien attaches upon the filing of the notice of lien and statement of expenses with the county clerk. A notice of lien and statement of expenses must state the name of the owner, if known, and the legal description of the property. A signature on a notice of lien and statement of expenses may be a facsimile signature as defined in Section 618.002, Texas Government Code.

(G) The lien obtained by the City is security for the expenditures made and interest accruing at the annual rate of ten (10) percent on the amount due from the date of payment by the city. Expenditures shall include an administrative fee of \$100 plus nuisance abatement fee, court/record filing fees, and other actual expenses for each abatement performed on each individual lot or parcel of land. The lien is inferior only to tax liens and liens for street improvements.

(H) The governing body of the City may bring a suit for foreclosure in the name of the City to recover the expenditures and interest due. The original notice of lien and statement of expenses or a certified copy of the same is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.

(I) The assessment of expenses and enforcement of a lien under this section is in addition to the City's remedy of issuing a citation or prosecuting for an offense under Sec. 96.32 of this chapter or Sec. 96.99 of this chapter.

(J) The City may foreclose a lien on property under this section in a proceeding relating to the property brought under Subchapter E, Chapter 33, Texas Tax Code, pursuant to Section 342.007, Texas Health and Safety Code.

Sec. 96.36 ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS.

(A) The City may immediately abate, without notice, weeds that:

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

(B) Not later than the 10th day after the date the City abates weeds under this section, the City shall give notice to the owner of the property from which the weeds were abated in the manner required by Sec. 96.33 of this chapter.

(C) The notice shall contain:

- (1) an identification, which is not required to be a legal description, of the property;

- (2) a description of the violation of the ordinance that occurred on the property;
- (3) a statement that the City abated the weeds; and
- (4) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

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

(E) An administrative hearing conducted under this section shall be conducted by the city manager or his designee not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.

(F) The City may assess expenses and create liens under this section as it assesses expenses and creates liens under Sec. 96.35 of this chapter. A lien created under this section is subject to the same conditions as a lien created under Sec. 96.35 of this chapter.

(G) The authority of the City under this section is in addition to the authority granted in Sec. 96.33 of this chapter.

Sec. 96.37 MAINTENANCE OF UNIMPROVED PROPERTY.

- (A) With the exception of cultivated crops, trees or brush, a person, firm, or corporation owning, occupying, or controlling unimproved property shall not allow weeds or plants to grow to a height greater than eight (8) inches within fifty (50) feet of a roadway, sidewalk or an adjacent property with an improvement. Noxious weeds shall be prohibited on unimproved property.
- (B) A person, firm, or corporation owning, occupying, or controlling unimproved property shall not allow brush or shrubs to grow within ten (10) feet of a curb line, edge of a roadway or adjacent property with an improvement. Limbs on trees within the ten (10) foot barrier of an adjacent property line must be pruned to a height of eight (8) feet above the ground.
- (C) A person, firm, or corporation owning, occupying, or controlling cultivated agricultural property within the jurisdiction of the City used for growing crops must maintain the property as follows:
 - (1) crops may not be allowed to grow in an area within ten (10) feet of a curb line, edge of a roadway, sidewalk or an adjacent property under different ownership;
 - (2) when a property is not actively growing cultivated crops, all vegetation must be harvested, cut, baled, shredded or plowed to comply with subsection (A).

- (D) A person, firm, or corporation owning, occupying, or controlling cultivated agricultural property shall not:
- (1) allow vegetation between the growing crop and an adjacent property with a structure or improvement to grow to a height greater than eight (8) inches;
 - (2) allow the growing crop to interfere with visibility, access, or maintenance at any intersection of public thoroughfares within the jurisdiction of the City; or
 - (3) allow the vegetation around the perimeter of the property, which is not a part of the growing crop, to grow to a height greater than eight (8) inches.

Secs. 96.38 – 96.44 RESERVED.

JUNKED VEHICLES

Sec. 96.45 JUNKED VEHICLES.

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the public;
- (2) tends to reduce the value of private property;
- (3) invites vandalism;
- (4) creates a fire hazard;
- (5) is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (7) is a public nuisance.

Sec. 96.46 AUTHORITY TO ABATE NUISANCE.

The City, acting through the city manager or his representative, is authorized to abate and remove a junked vehicle or part of a junked vehicle from private or public property or a public right-of-way as a public nuisance in accordance with the junked vehicle regulations in this chapter.

Sec. 96.47 RIGHT OF ENTRY.

The city manager or his representative may enter upon private property to examine vehicles or parts thereof, obtain information as to the identity of the vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a junked vehicle to accomplish the purposes of this ordinance.

Sec. 96.48 MUNICIPAL COURT AUTHORITY.

The municipal court of the City shall have authority to take all actions necessary to enforce the abatement procedures for junked vehicles and to issue all orders necessary to enforce the provisions in this chapter concerning junked vehicles. The judge of the municipal court of the City shall conduct all hearings necessary for the application and enforcement of this division.

Sec. 96.49 NOTICE OF VIOLATION.

(A) Prior to any action being taken to abate and remove a junked vehicle, a notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) The last known registered owner of the nuisance;
- (2) Each lienholder of record of the nuisance; and
- (3) The owner or occupant of:
 - (a) The property on which the nuisance is located; or
 - (b) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(B) Notice Requirements:

- (1) describe the nature of the nuisance;
- (2) state that the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed;
- (3) state that the addressee is entitled to a public hearing if a request for a public hearing is made before that 10-day period expires; and
- (4) state that in the event that no request for hearing is received before the expiration of the 10-day period or that the persons entitled to notice fail to attend a requested hearing, it shall be conclusively presumed the vehicle is a junked vehicle as defined under state law and this chapter.

(C) If a person who receives a notice under this section desires a hearing, the person must file a request for hearing in writing with the municipal court not later than the 10th day after the date on which the notice was personally delivered or mailed. The request for hearing must include:

- (1) the name of the person filing the request;
- (2) a description of the nuisance; and

(3) state that a hearing is requested under this division or section.

(D) If the post office address of the last known registered owner of the nuisance is unknown, notice under this section may be placed on the nuisance or, if the owner is located, personally delivered.

(E) If the notice sent under this section is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

Sec. 96.50 HEARING.

(A) If a hearing is requested under Sec. 96.49 of this chapter, a public hearing, to be conducted by the municipal court judge, shall be held in the municipal court of the City to determine whether a public nuisance exists.

(B) The hearing shall not be held prior to the 11th day after the date on which the notice under Sec. 96.44 of this chapter was personally delivered or mailed.

(C) At a hearing under this section, any interested person may present evidence. The municipal court judge shall consider all relevant evidence presented at the hearing to determine whether the alleged nuisance meets the definition of junked vehicle under this chapter.

(D) At a hearing under this section, the alleged nuisance is presumed to be inoperable, unless demonstrated otherwise by the owner or other interested person.

(E) If the municipal court finds that the alleged nuisance is not a junked vehicle, the municipal court judge shall make a written order that there is not cause for abatement at the time of the order. An order that there is not cause for abatement at the time of the order does not bar a future action for abatement of the same motor vehicle, aircraft, or watercraft as a junked vehicle.

(F) If the municipal court judge finds that the alleged nuisance is a junked vehicle, the municipal court judge shall make a written order that the motor vehicle, aircraft, watercraft, or part thereof be abated or removed in accordance with the provisions of this chapter concerning junked vehicles.

(G) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include:

(1) for a motor vehicle, the vehicle's:

(a) description;

(b) vehicle identification number; and

(c) license plate number;

- (2) for an aircraft, the aircraft's:
 - (a) description; and
 - (b) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
- (3) for a watercraft, the watercraft's:
 - (a) description; and
 - (b) identification number as set forth in the watercraft's certificate of number.

Sec. 96.51 INAPPLICABILITY OF REGULATIONS.

The provisions of this chapter concerning junked vehicles do not apply to a vehicle or vehicle part:

- (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (a) maintained in an orderly manner; and
 - (b) not a health hazard; and
 - (c) screened from ordinary public view by approved means, including a fence, rapidly growing trees, or shrubbery.

Sec. 96.52 ABATEMENT OF NUISANCE.

Upon the expiration of the ten (10) day notice period without a request for hearing being filed or upon receipt of a written order from the municipal court after a hearing required by Sec. 96.50 of this chapter, the city manager or his representative may cause the junked vehicle or part of the junked vehicle to be abated by removal and disposal as provided for in Sec. 96.54 of this chapter by any authorized person.

Sec. 96.53 RELOCATION OF JUNKED VEHICLES.

The relocation of the junked vehicle or part of a junked vehicle that is a public nuisance to another location within the jurisdiction of the City, after a proceeding for the abatement and removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle or part of a junked vehicle constitutes a public nuisance at the new location.

Sec. 96.54 JUNKED VEHICLE DISPOSAL.

A junked vehicle removed by the City pursuant to this division shall be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

Sec. 96.55 JUNKED VEHICLES NOT TO BE MADE OPERABLE AFTER REMOVAL.

After any junked vehicle has been removed under the authority in Sec. 96.52 of this chapter, it shall not be reconstructed or made operable again.

Sec. 96.56 NOTICE TO DEPARTMENT OF TRANSPORTATION.

Not later than the fifth day after the date of removal of a junked vehicle pursuant to this chapter, notice identifying the junked vehicle or part of the junked vehicle removed must be given to the state department of transportation.

Sec. 96.57 RIGHT OF REMOVAL FROM STREETS PRESERVED.

Nothing in this chapter shall affect a law authorizing the immediate removal of a vehicle left on public property that is an obstruction of traffic.

Sec. 96.58 OFFENSE.

(A) A person commits an offense if the person maintains a public nuisance described by Sec. 96.45 of this chapter. Each day that a person maintains the public nuisance shall be a separate offense.

(B) An offense under this section is a Class C misdemeanor punishable by a fine as set forth in Sec. 10.99 of this code.

(C) The court shall order abatement and removal of the nuisance upon conviction for an offense under this section.

Secs. 96.59 – 96.64 RESERVED.

RESIDENTIAL PROPERTY STANDARDS

Sec. 96.65 OUTSIDE STORAGE PROHIBITED.

(A) It shall be unlawful for a person to openly store any item prohibited in subsection (B) in an area within the front yard or side yard that is visible a public right-of-way or public easement for more than 24 hours on any property within a residentially zoned district or on property used primarily for residential purposes, including multifamily property.

(B) Open visible storage of the following items is prohibited:

- (1) Merchandise for sale;
 - (2) Building materials;
 - (3) Trash bags;
 - (4) Inventory or supplies for a business;
 - (5) Chemicals and supplies;
 - (6) Firewood;
 - (7) Furniture, barbeque grills, smokers, ice chests, and pet kennels;
 - (8) Appliances and other items not designed or intended for outdoor use;
 - (9) Lawnmowers and other lawn care equipment;
 - (10) Tools;
 - (11) Boxes, bins, barrels, and buckets;
 - (12) Motor vehicle parts and accessories; including, but not limited to, engines, transmissions, electrical equipment, suspension parts, tires, hubcaps, and other motor vehicle parts; and
 - (13) Unattended motor vehicles stored on jack stands or otherwise lifted from the ground or surface.
- (C) With the exception of firewood for personal use and activities identified in Section 96.67, outdoor storage of degradable material is prohibited.
- (D) Outdoor storage of firewood and non-degradable material is permitted if the material is not visible from a public right-of-way or public easement and materials are arranged into storage piles that do not create a health, safety, fire, egress or access hazard and the storage piles are:
- (1) six (6) feet or less in width;
 - (2) six (6) feet or less in height;
 - (3) twenty-five (25) feet or less in length;
 - (4) three (3) or more feet from any fence or adjoining property line;
 - (5) three (3) or more feet from an adjacent storage pile;
 - (6) three (3) or more feet from a shrub, bush, brush or the base of a tree; and
 - (7) three (3) or more feet from structures.
- (E) Outdoor storage of material does not include outdoor furniture, fixtures or recreational items.
- (F) Areas around and under outdoor storage of material shall be kept free and clear of accumulation of grass, weeds, brush or other uncultivated vegetation.

Sec. 96.66 PRECLUSION.

Nothing in Sec. 96.65 of this chapter shall preclude the City from enforcing any nuisance, health and safety, or fire code violations that are screened from public view or exist anywhere on a property.

Sec. 96.67 AFFIRMATIVE DEFENSES TO PROSECUTION.

It is an affirmative defense to prosecution for a violation of Sec. 96.65 of this chapter for items or materials which:

- (1) are stored to conduct a properly permitted garage sale;
- (2) are necessary for properly permitted construction or demolition work performed on the property. Materials stored for work not requiring a building permit shall be stored no longer than ten consecutive days within any six-month period;
- (3) are routinely used, are not damaged or inoperable and are not visible from a public right-of-way or public easement;
- (4) are a barbecue grill or smoker and is actively being used or is mounted to an attached trailer which is licensed and is capable of being operated on a public roadway. A smoker or grill on a trailer shall be stored on an improved surface.

Secs. 96.68—96.74 RESERVED.

NUISANCE PERSONAL PROPERTY

Sec. 96.75 CERTAIN PERSONAL PROPERTY DECLARED A NUISANCE.

(A) Any personal property left unattended in or upon any public street, alley, sidewalk, park, or other public property within the jurisdiction of the City for more than forty-eight (48) hours is hereby declared a nuisance.

(B) Any personal property or obstruction placed, left standing, erected, or lying in violation of any ordinance of the City is hereby declared a nuisance.

(C) Any personal property or obstruction placed, left standing, erected, or lying on private property without consent of the owner, occupant, or person otherwise in control of the premises on which the same is located is hereby declared to be a nuisance.

Sec. 96.76 NOTICE AND ABATEMENT OF NUISANCE PERSONAL PROPERTY ON PRIVATE PROPERTY.

(A) When personal property is discovered on private property in violation of subsections (B) or (C) of Sec. 96.75 of this chapter, the code enforcement officer shall give notice of the nuisance by mailing notice of the violation to the record owner of the property where the nuisance is located at the address recorded in the appraisal district records for the Appraisal District in which the property is located.

(B) The notice under subsection (A) shall:

- (1) describe the nuisance;
- (2) advise that if the nuisance is not removed within forty-eight (48) hours of the delivery of the notice the City will abate the nuisance; and
- (3) advise that the notice is considered delivered three days after the date the notice was mailed.

(C) A notice under this section is considered delivered three days after the notice is placed in the United States Mail addressed as required by subsection (B).

(D) If a nuisance remains on private property forty-eight (48) hours after the notice under this section is delivered, the City shall have authority to enter the private property where the nuisance is located and abate the nuisance.

(E) Upon abatement of the nuisance, the nuisance personal property shall be disposed of by delivering the personal property to the City's Waste Management Department or to an entity with which the City contracts for waste management services.

Sec. 96.77 NOTICE AND ABATEMENT OF NUISANCE PERSONAL PROPERTY ON PUBLIC PROPERTY.

(A) When personal property is discovered on public property in violation of subsection (A) of Sec. 96.75 of this chapter, the code enforcement officer shall give notice of the nuisance by posting notice of the violation on the nuisance personal property or by posting the notice of the violation on a stake in a place as close as practicable to the nuisance personal property.

(B) The notice under subsection (A) shall:

- (1) describe the nuisance;
- (2) state the date the notice was posted; and
- (3) advise that if the nuisance is not removed within forty-eight (48) hours of the date the notice is posted the City will abate the nuisance.

(C) If nuisance personal property remains on public property forty-eight (48) hours after the notice under this section is posted, the City shall have authority to abate the nuisance.

(D) Upon abatement of the nuisance, the nuisance personal property shall be disposed of by delivering the personal property to the City's Waste Management Department or to an entity with which the City contracts for waste management services.

Sec. 96.78 EXCEPTIONS.

These regulations concerning nuisance personal property shall not apply to:

- (1) motor vehicles;
- (2) property that the possession, use, sale manufacture, transportation, repair, or delivery of which is prohibited by law;
- (3) property which is regulated by the Cleburne Police Department; or
- (4) weapons, as defined in the Texas Penal Code.

Secs. 96.79—96.98 RESERVED.

Sec. 96.99 PENALTY.

It is an offense for a person, firm, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in Sec. 10.99 of this code.”

CHAPTER 99: STREETS AND SIDEWALKS

GENERAL PROVISIONS

Sec. 99.05 PROPERTY OWNERS TO MAINTAIN SIDEWALKS.

It shall be the duty and obligation of all owners, occupants and users of real property abutting upon streets within the jurisdiction of the City, at their own cost and expense, to maintain and keep the sidewalks (and paving laid thereon) bordering their property at curb grade and level and free of depressions, excavations, elevations, inequalities, obstacles, obstructions, or encroachments, natural or artificial, above or below ground-level, or which overlap, impinge, upon or appropriate any part of the sidewalk area or the space eight feet above it; and to allow no oils, grease, ice, snow, or water to collect or remain thereon; and generally and in every manner, to keep such sidewalks in a safe and adequate condition, free from defects, so that they are easily accessible to and may be free and safely used by the public for travel by foot.

Sec. 99.06 OBSTRUCTIONS PROHIBITED.

(A) It shall be unlawful for any person, firm, company, or corporation to obstruct or cause to be obstructed any street, avenue, alley, or sidewalk within the jurisdiction of the City with vehicles, boxes, lumber, timber, firewood, brush, posts, awnings, signs, or other substances or materials, in any manner whatsoever.

(B) Upon finding an obstruction prohibited by this section, a police officer, code enforcement officer, or other employee of the City may remove the obstruction or cause the obstruction to be removed from the street, avenue, alley, or sidewalk and dispose of the obstruction.

Sec. 99.07 OBSTRUCTION BY TREES, HEDGES, OR SHRUBS.

- (A) Any condition maintained in violation of this section is hereby deemed a public nuisance, and, in addition to any other remedy or enforcement option available under the law, the City may pursue the abatement of the condition as provided under Chapter 96 of this code.
- (B) It shall be unlawful for any person, firm, company, or corporation to allow a tree, tree limb, or tree branch to be lower than fourteen (14) feet above the surface of any street, avenue, or alley within the jurisdiction of the City.
- (C) It shall be unlawful for any person, firm, company, or corporation to allow a tree, tree limb, or tree branch to be lower than eight (8) feet above the surface of any sidewalk within the jurisdiction of the City.
- (D) Property owners shall maintain a driver's line of sight zone parallel to the roadway for a horizontal distance of fifteen (15) feet from the edge of the roadway and a vertical clearance that extends from three (3) feet above the surface of the roadway to eight (8) feet above the curb line. Trees growing in the driver's line of sight zone shall be at least ten (10) feet from other trees in the driver's line of sight zone.
- (E) Property owners shall maintain a driver's line of sight zone at all corners of street-to-street intersections. The driver's line of sight zone shall be in the shape of a horizontal triangle created by measuring 25 feet from the intersection in perpendicular directions along the curb line or edge of the roadway. The driver's line of sight zone shall have a vertical clearance that extends from three (3) feet above the surface of the roadway to eight (8) feet above the curb line.

Sec. 99.08 DISPLAY OF GOODS, WARES, AND MERCHANDISE ON SIDEWALKS.

It shall be unlawful for any merchant, trader, broker, or other person to use more than one-third ($\frac{1}{3}$) of any sidewalk within the jurisdiction of the City for the display of goods, wares, or merchandise, provided such merchant, trader, broker, or other person shall remove all merchandise from such sidewalk each night.

Sec. 99.09 AWNINGS OVER SIDEWALKS.

(A) It shall be unlawful for any person, firm, company, or corporation to suspend or put up any awning within the jurisdiction of the City:

- (1) less than 7 feet above any sidewalk; or
- (2) within 18 inches of the any curb line.

(B) It shall be unlawful for any person, firm, company, or corporation to hang any sign on an awning that hangs below the lowest fixed portion of the awning.

Secs. 99.11—99.19 RESERVED.”

Sec. 99.99 PENALTY.

It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in §10.99 of this code.”

CHAPTER 106: DONATION BOXES

Sec. 106.01 DEFINITIONS.

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

Donation Box – any box, container, building, trailer, or other receptacle that is intended for use as a collection point for donated clothing or other household materials.

Person – an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, a limited liability company, estate, trust, public or private organization, or any other legal entity.

Sec. 106.02 APPLICABILITY.

The requirements of this chapter shall apply to all donation boxes regardless of whether said boxes were placed prior to the effective date of these regulations. No previously placed donation boxes shall be granted any legally non-conforming rights under this chapter or any other chapter of this Code.

Sec. 106.03 PERMIT AND DECAL REQUIRED.

(A) It shall be unlawful for any person to place or maintain, or allow to be placed or maintained, any donation box within the jurisdiction of the City, without having first secured a permit and decal in compliance with the provisions of this chapter.

(B) It shall be unlawful for any person that owns, leases, is in control of, or is entitled to possession of real property within the jurisdiction of the City to authorize or allow any donation box to be placed on or remain on such real property without a valid permit decal in compliance with the provisions of this chapter.

Sec. 106.04 PERMIT REQUIREMENTS.

A permit and decal to allow a donation box to be placed and used on designated real property may be issued by the City after inspection and verification that the following conditions are satisfied:

- (1) The person receiving a permit to place or maintain a donation box is registered to operate in the State of Texas as a non-profit corporation *or* has proof of a written agreement to solicit on behalf of such a non-profit corporation.
- (2) The real property owner provides written authorization, with the signature notarized or on the property owner's company letterhead, allowing the donation box on the property.
- (3) The permit holder agrees to be responsible for collecting the contents of the donation box in order to prevent overflow and littering.
- (4) No more than one (1) donation box may be permitted for placement on any one lot. In the case of a shopping center or office development that consists of multiple platted lots, the administrator shall treat the shopping center or office development as if it is only one contiguous lot.
- (5) The base area of a donation box shall not exceed 50 square feet in size.
- (6) Each donation box shall clearly indicate in writing on the side of each box that all donations must fit into and be placed within the donation box.
- (7) The permit holder placing or maintaining the donation box shall display current contact information including street address and phone number on the donation box. Said information must be readable and clearly visible to the public.
- (8) Each donation box shall be constructed from a sturdy, weather resistant material.
- (9) Each donation box shall be painted one solid color. No high-intensity or fluorescent colors shall be used for the donation box or associated signage.

Sec. 106.05 APPLICATION FOR PERMITS.

(A) Applicants for permits under this chapter shall file a written, sworn application with the City. The application shall include the written authorization of the property owner allowing the donation box on the property.

(B) A separate permit and application shall be required for each donation box regardless of the ownership thereof. Permits issued under the provisions of this chapter shall be valid only at the address stated on the permit.

(C) An annual permit fee for each donation box shall be required. All permits shall expire on December 31st of each calendar year regardless of the date of issuance; provided, however, that the fee for each permit shall be prorated for each month or portion of a month for which the permit is issued.

(D) Any person denied a permit shall have the right to appeal such action. In such case the procedure shall be the same as in revocation.

Sec. 106.06 TRANSFER OF PERMIT PROHIBITED.

No permit issued under the provisions of this Article shall be transferrable and the authority a permit confers shall be conferred only on the permit holder named therein.

Sec. 106.07 LOCATION RESTRICTED.

Donation boxes shall only be permitted to be placed on real property in any zoning district on which a parking lot is maintained by a business that is in operation. Only one donation box will be allowed on a shared parking lot.

Sec. 106.08 IMPOUNDMENT OF DONATION BOXES.

Any donation box located within the jurisdiction of the City that does not have a current, valid permit or any permitted donation box that has received more than two notices of violation from the City in the past 12 months shall be subject to impoundment by the City. Any donation box impounded by the City shall be released to the owner upon payment of all applicable impoundment and storage fees.

Sec. 106.09 MAINTENANCE AND UPKEEP.

(A) The permit holder and the property owner shall be held jointly and severally liable and responsible for the maintenance, upkeep, and servicing of the donation box and clean up and removal of any donations left on the property outside of the donation box. Any maintenance, service or cleanup associated with a donation box shall be completed within forty-eight (48) hours of notification by the City.

(B) The City shall have the authority to abate any property in violation of this chapter that is deemed a public nuisance under any other provisions of this Code.

(C) The visual and structural integrity of the donation box must be maintained continuously.

(D) The placement of the donation box shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway, or street.

(E) The donation box shall not be located in a required building setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement, or fire lane.

(F) At least one (1) stacking or parking space shall be required for use of persons accessing the donation box.

(G) The donation box may not block or occupy any number of parking spaces required by the primary use structure.

(H) The current permit decal for the specific donation box must be affixed and displayed at all times on the outside of the donation box.

(I) The donation box shall only be used for the solicitation and collection of clothing and household materials. All donation materials must fit into and be placed inside the donation box. The collection or storage of any materials outside the container is strictly prohibited.

(J) No donation box shall be permitted to be placed or remain placed within 200 feet from a residential zoning district, or residential use. Said distance shall be measured from the donation box to the lot line of the residential use or residentially zoned property.

(K) The donation box shall be continuously maintained in compliance with all requirements imposed by Sec. 106.04, as amended.

Sec. 106.10 REVOCATION OF PERMIT.

- (A) Grounds. Any permit issued hereunder may be revoked by the City if the permit holder has received two (2) notices of violation for violations of this chapter or any other provision of this Code within a 12 month time period or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter.
- (B) Notice. Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
- (C) Appeal; hearing. The permit holder shall have ten (10) days from the date of such revocation in which to file written notice of their appeal from the order revoking said permit. Upon receipt of an appeal request, a hearing shall be set not later than fifteen (15) days after the notice of the appeal is filed. At the hearing, the City Council shall consider whether the facts establish grounds for the revocation under the terms of subsection (A) and shall issue a written determination to the permit holder. The City Council's decision shall be final.
- (D) Stay. Any appeal of revocation pursuant to this section shall stay the revocation until said revocation is finalized.

- (E) Removal of Box; Impoundment. Upon finalization of any revocation, the permit holder shall remove said donation box no later than ten (10) days after said final decision. Upon expiration of this 10-day grace period, the donation box shall acquire noncompliant status and be subject to immediate impoundment without further notice.
- (F) One-Year Waiting Period. In the event the permit of any permit holder is revoked by the City, no second or additional permit shall be issued to such person within one year of the date such permit revocation was finalized.

Sec. 106.11 FEES.

All fees established by this chapter shall be in an amount set by resolution of the City Council. The permit fee shall be \$45.00

Secs. 106.12—106.98 RESERVED.

Sec. 106.99 PENALTY.

(A) It is an offense for a person, firm, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in Sec. 10.99 of this code.

(B) A culpable mental state is not required for the commission of an offense under this section.

(C) Nothing in this chapter shall limit the remedies available to the City in seeking to enforce the provisions of this chapter.

(D) All other legal remedies are reserved by the City if necessary to enforce the provisions of this chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this section.”

CHAPTER 130: GENERAL OFFENSES

Sec. 130.99 PENALTY.

(A) It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any of the provisions of this chapter. Each day that a violation occurs or is permitted to exist shall constitute a separate offense. An offense under this subsection that is not otherwise classified by this section is a Class C misdemeanor. Any offense under this subsection for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in Sec. 10.99 of this code.

(B) It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any provision of Sec. 130.17 of this chapter. Each day that a violation occurs or is permitted to exist shall constitute a separate offense.

A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.

(C) It is an offense for a person, firm, company, or corporation to fail to comply with the conditions of Sec. 130.15 of this chapter. It is an offense for a person, firm, company, or corporation to sell any material described in Sec. 130.15 of this chapter in a store or to possess any material described in Sec. 130.15 of this chapter in the jurisdiction of the City that does not comply with the conditions of Sec. 130.15 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.

(D) It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any provision of Sec. 130.12 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of not less than \$5 and no more than \$500 for each offense.

(E) It is an offense for any person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any provision of Sec. 130.18 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.

(F) It is an offense for any person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any provision of Sec. 130.22 or Sec. 130.23 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.

(G) It is an offense for any person, firm, company, or corporation to knowingly perform an act prohibited by Sec. 130.24 of this chapter or to knowingly fail to perform an act required by Sec. 130.24 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.

(H) It is an offense for any person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any provision of Sec. 130.26 of this chapter. Each day that a violation of this subsection occurs or is permitted to exist shall constitute a separate offense. A violation of this subsection is a Class C misdemeanor and is punishable by a fine of no more than \$500 for each offense.”

TITLE XV: LAND USAGE

CHAPTER 150: BUILDING REGULATIONS

“Rental Housing”

Sec. 150.115 PURPOSE

The purpose of this subchapter is to establish minimum standards for the initial and continued occupancy of leased dwellings used for human habitation within the jurisdiction of the City. These standards shall apply to new and existing leased dwellings.

Sec. 150.116 RESPONSIBILITY OF OWNERS AND TENANTS

- (A) Tenants of a leased dwelling shall give the owner thereof access to any part of such dwelling or accessory structure and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of City ordinances or with any lawful order issued pursuant to the provisions of City ordinances.
- (B) Owners and tenants of a leased dwelling shall be responsible for maintaining a safe, continuous and unobstructed path of travel from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.
- (C) Owners of a leased dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling, accessory structures, and premises thereof.
- (D) Tenants of a leased dwelling shall be responsible for maintaining in a clean and sanitary condition that part of the dwelling, accessory structures and premises thereof which they occupy and control.
- (E) Every leased dwelling shall be supplied with approved containers and covers for storage of refuse as required by City of Cleburne ordinances, and the tenant of such dwelling shall be responsible for the removal of refuse.
- (F) Every boarding house and rooming house shall be supplied with approved containers and covers for storage of refuse as required by City of Cleburne ordinances, and the owner of such boarding house or rooming house shall be responsible for the removal of refuse.
- (G) Tenants of a leased dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of the same.
- (H) The owner of a boarding house or rooming house shall be responsible for keeping all supplied plumbing fixtures therein in a clean and sanitary condition.
- (I) The owner shall reside in a boarding house and assume responsibility for the operation of the boarding house.
- (J) No tenant shall willfully destroy, deface, or impair any of the premises, facilities, structures or equipment, or any part of the leased/let property.

- (K) No owner or representative shall block, remove, shut off, or discontinue any water, sewer, equipment or utility, which is required by ordinance or law for any occupied leased dwelling, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies.
- (L) State of Texas law governing the respective responsibilities of landlords and tenants under agreements for Rental Housing are enumerated in Texas Property Code, Chapter 91 and Chapter 92.

Sec. 150.117 MAINTENANCE OF LEASE/LET PROPERTIES

- (A) The City shall compile and maintain a list of dwellings leased or let for occupancy.
- (B) Leased/Let properties shall comply with federal, state, and local laws and ordinances and the most recently adopted version of the International Property Maintenance Code.
- (C) Complaints alleging a violation may be generated by the public, city staff members, or personnel from other agencies.
- (D) Upon receiving a complaint of an alleged violation, the Code Official shall cause the property to be inspected.
- (E) If the Code Official deems a leased/let property substandard, all repairs and/or abatement procedures shall comply with the provisions of the property maintenance subchapter of this chapter, Sections 150.140, et seq.

Sec. 150.118 NEGLIGENT PROPERTIES

- (A) Leased/let properties with three (3) or more documented violations of federal, state, or local laws and/or ordinances within a twelve (12) month period shall be deemed a Negligent Property and shall be registered in the Negligent Property Program (NPP). The City shall provide written notice to the owner of each property designated to participate in the NPP. The property owner may appeal the designation to the Building Standards Commission in the manner provided by Section 150.150.
- (B) Properties registered in the NPP shall pay an annual registration fee of one-hundred dollars (\$100) and shall be subject to an inspection schedule necessary to verify abatement of all documented violations and ensure continued compliance with federal, state, and local laws and ordinances.
- (C) When documented violations on a Negligent Property have been abated in accordance with applicable federal, state, and local laws and ordinances, a certificate of compliance shall be issued to the property owner.
- (D) Registration in the NPP shall be for a minimum period of twenty-four (24) months from the date the most recent certificate of compliance is issued.
- (E) If a property is registered in the NPP and is cited for one or more documented violations, the property shall remain on the NPP for a minimum of twenty-four (24) months from the date the most recent certificate of compliance is issued.

- (F) Properties must have no documented violations within a twenty-four month period to be removed from the NPP.
- (G) If a property registered in the NPP is sold, or ownership is otherwise transferred, and it remains as lease/let property, the new owner(s) may appeal to the Building and Standards Commission in the manner provided by Section 150.150 to have the property removed from the NPP registration list. The Building and Standards Commission shall have the authority to act upon such appeal.
- (H) In deciding whether to remove a property from the NPP, the Commission may consider, among other factors, whether violations currently exist on the property, the compliance history of the new owner(s) in the City or other jurisdictions, and the financial capability of the new owner(s) to correct documented violations and avoid future violations.

Sec. 150.119 OCCUPANCY REQUIREMENTS

- (A) No person shall let to another for occupancy or use as a human habitation, any temporary housing for more than thirty (30) consecutive days or more than forty-five (45) cumulative days in any calendar year.
- (B) In addition to the minimum area requirements of Table 404.5 of the International Property Maintenance Code, every dwelling unit shall contain not less than four hundred (400) square feet of habitable floor area for the first adult occupying the unit. An additional one hundred (100) square feet of habitable area shall be required for each additional adult occupying the unit. An additional fifty (50) square feet of habitable area shall be required for each child occupying the unit.
- (C) A kitchen shall have not less than sixty (60) square feet of floor area, at least four (4) square feet of sink area in one sink and at least ten (10) square feet of food prep area (countertop).
- (D) Cellars shall not be used for habitable spaces.
- (E) Basements shall not be used for habitable spaces unless:
 - 1. The floor and walls are substantially watertight; and
 - 2. The total window area, total openable window area and ceiling height are equal to those required for habitable spaces; and
 - 3. The required minimum window area of every habitable space is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access way.

Sec. 150.120 FUEL GAS SYSTEM

- (A) New fuel gas systems shall comply with Chapter 24 of the most recently adopted version of the International Residential Code.
- (B) Existing fuel gas systems shall be pressure tested in accordance with Section G2417 of the most recently adopted version of the International Residential Code:

1. at least once every five years; or
 2. whenever the fuel gas system is altered or repaired; or
 3. the Code Official has reason to believe the system is damaged or leaking.
- (C) Installations, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe condition. Devices or safeguards which are required by City ordinances shall be maintained in compliance with the code edition under which they were installed. The owner shall be responsible for maintenance of fuel gas systems. To determine compliance with this provision, the Code Official shall have the authority to require a fuel gas system to be re-inspected.
- (D) Additions, alterations, renovations or repairs to fuel gas systems shall conform to that required for new systems without requiring the existing installation to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing fuel gas system to become unsafe, hazardous or overloaded. Minor additions, alterations, renovations and repairs to existing fuel gas systems shall meet the provisions for new systems, unless such work is done in the same manner and arrangement as was in the existing fuel gas system, is not hazardous and is approved.
- (E) Leased or let dwellings supplied with fuel gas shall have operational carbon monoxide detector(s) installed in the dwelling, sufficient to provide appropriate protection.

Sec. 150.121 ELECTRICAL SYSTEM

- (A) With the exception of the requirements listed in this Section, electrical systems and equipment lawfully in existence at the time of the adoption of this ordinance may have their use, maintenance and repair continued if the use, maintenance and repair is in accordance with the original design and no hazard to life, health or property has been created by the electrical system and equipment.
- (B) Any additions, alterations or repairs of electrical systems shall conform to Section 3401.4 of the currently adopted International Residential Code and be maintained in a state of good repair and in good working order.
- (C) Electrical systems for leased/let dwellings shall be grounded in accordance with Section E3607 of the currently adopted International Residential Code.
- (D) Connections at service heads shall be in accordance with Sections E3605.9.1 through E3605.9.7 of the currently adopted International Residential Code.
- (E) Tenants shall have ready access to all overcurrent devices protecting the conductors supplying that dwelling.
- (F) Fused neutrals are prohibited.
- (G) All fixtures, receptacles, equipment and wiring in leased/let dwellings and accessory structures shall be maintained in a state of good repair, safe, capable of being used. Electrical

systems shall comply with the requirements of NFPA 73, Standard for Electrical Inspections for Existing Dwellings.

- (H) Every dwelling shall be equipped with smoke detectors installed in all sleeping areas. Smoke detectors shall be hard wired with battery backup.
- (I) No leased/let dwelling unit shall be crosswired unless the electric energy charges for that dwelling are paid for by the owner. If a complaint alleges a leased/let dwelling is crosswired, the Code Official shall cause the dwelling to be inspected. The Code Official may require certification from a licensed electrician attesting the leased/let dwelling is not crosswired.

Secs. 150.122—150.139

RESERVED.

CHAPTER 150: BUILDING REGULATIONS

“PROPERTY MAINTENANCE”

Sec. 150.140 PURPOSE

Substandard properties negatively affect the health, security, privacy and stability of the community. The City declares every substandard building, structure or property, as herein defined, within the jurisdiction of the City, subject to repair, vacation, demolition or abatement as herein provided in order to protect the health, safety and welfare of the occupants and the public.

Sec. 150.141 CODES ADOPTED

- (A) The 2015 International Property Maintenance Code as well as approved local amendments are fully incorporated by reference as though copied into this section in its entirety. The material contained in the International Property Maintenance Code shall not be included in the formal municipal codification of ordinances but shall be maintained as a public record and will be available for public inspection and copying during regular business hours.
- (B) The City adopts the provisions of Texas Local Government Code Chapter 54, Subchapter C, and amendments thereto if any, which is entitled “Quasi-Judicial Enforcement of Health and Safety Ordinances” in a home-rule municipality, and does declare the implementation of that subchapter.
- (C) Properties shall comply with applicable federal, state and local laws and all adopted City codes and ordinances.
- (D) Unless otherwise stated, it shall be the responsibility of the property owner, property manager (if so designated by the property owner), or in some instances the tenant (if specified by City ordinance or lease agreement between owner and tenant); all of whom shall be collectively referred to as the “responsible party”, to comply with applicable federal, state and local laws and all adopted City codes and ordinances.

Sec. 150.142 DEFINITIONS

Unless otherwise expressly stated, the terms defined in the most recently adopted version of the International Property Maintenance Code in addition to the terms defined below, shall have the meaning ascribed, for the purposes of implementing and interpreting the International Property Maintenance Code and Cleburne Code of Ordinances, Sections 150.115 through 150.179.

Accessory Space shall mean any space in a dwelling used for bathrooms, toilet rooms, laundry rooms, unfinished attics, foyers, closets, halls, connecting corridors, storage spaces, cellars, utility spaces and similar areas not included in the definition of habitable space.

Boarding House shall mean a dwelling unit where sleeping units are let, with or without meals, and the dwelling unit is not occupied as a single-family dwelling. Occupants do not have exclusive access to kitchen and/or bathroom facilities and have limited or no access to non-common areas of the dwelling unit. Each occupant has a separate agreement with the owner and may be evicted individually without affecting the other occupants.

Cellar shall mean a portion of a dwelling located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Clean and Sanitary shall mean the absence of chemicals, organic material and other biological agents detrimental to the health, safety and welfare of human life.

Condemn shall mean a final order of the Cleburne Building and Standards Commission adjudging a building, equipment, structure or property unfit for use or occupancy and a public nuisance to the extent that the life, health, property, or safety of the public or occupants are endangered, ordering the City of Cleburne to abate the condition by demolition and/or removal of the hazard.

Crosswiring shall mean the condition where all or part of the electric service for one dwelling unit is connected to or paid for through the electric meter that serves another dwelling unit.

Duplex shall mean any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as two dwelling units or which is occupied as a home or place of residency by two families living in independent dwelling units.

Dwelling shall mean any building, structure or portion thereof, occupied by, or designed or intended for occupancy by, one or more persons for living purposes. Temporary housing, as defined below, shall not be regarded as a dwelling.

Family shall mean the functional equivalent of a traditional family; whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibilities for common areas and sharing household activities and responsibilities, such as meals, chores, household maintenance and expenses; and where, if the dwelling unit is rented, all adult occupants have chosen to jointly occupy the entire premises of the dwelling unit, under a single lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the dwelling unit rather than the landlord or property manager. This definition shall not include any society, club, fraternity, coterie,

organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Fuel Gas System shall mean all piping systems, appliances, equipment, devices, apparatus and appurtenances that distribute or utilize fuel gas within a structure or on a property.

Gender Words having a masculine gender shall include the feminine gender.

Graffiti shall mean any unauthorized inscription, word, signature, symbol, design, or other marking of any sort that is etched, written, painted, drawn, or applied in any other way to any structure, building, tree, vehicle, or property of any sort, or to any portion or element thereof.

Improved Surface shall mean a ground surface covered or paved with a material such as concrete, asphalt, brick and mortar, stone and mortar, concrete pavers and mortar, rock and/or gravel in such a manner as is designed to properly support the gross weight of the class of vehicle parked, support all wheels of the vehicle and permanently prohibit both weed growth around and under the vehicle and leakage of oil, fuel and other fluids into the ground. Rock and gravel surfaces shall have an impervious underlayment, be dust free and shall be contained by a rigid border to prevent the rock or gravel from spreading beyond the improved surface area.

Kitchen shall mean an area used, or designated to be used, for the preparation of food.

Multi-Family (APARTMENT) shall mean any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units which are occupied as a home or place of residency by three or more families living in independent dwelling units.

Negligent Property shall mean any leased/let property that has three (3) or more documented violations of federal, state, or local laws and/or ordinances within a twelve (12) month period.

Negligent Property Program (NPP) shall mean the City of Cleburne's mandatory inspection program designed to eliminate and prevent substandard conditions on leased/let properties.

Notice of Violation shall mean a written notification that documents and communicates violations observed during an inspection.

Noxious and Invasive Plants as defined in Chapter 96.

Overcrowding. Occupancy of a dwelling by more occupants than allowed or permitted by the maximum occupancy requirements for habitable space in accordance with the IPMC and any approved amendments.

Plumbing System shall mean the water supply and distribution pipes; plumbing fixtures and traps; water treating or water using equipment; soil waste and vent pipes; and sanitary and storm sewers and building drains; in addition to their respective connections, devices and appurtenances within a structure or on a premises.

Refuse shall mean waste materials defined as garbage or rubbish by the IPMC.

Sewage means any liquid waste containing animal, vegetable or chemical matter in suspension or solution generated by residential, industrial, commercial, institutional, agricultural and other occupancies. Sewage includes but is not limited to waste generated by bathing, laundry, toilets, sinks, floor drains, equipment wash areas, and secondary containment areas.

Single Family Dwelling shall mean a building or structure with only one dwelling unit, occupied as, or designed or intended for occupancy as, a residence for one family.

Substandard shall mean any building, structure or property, or portion thereof which, as the result of the development, use and/or conditions created thereon, exists in any condition that endangers the life, limb, health, property, safety or welfare of the public or occupants thereof, or violates any code or ordinance of the City.

Supplied shall mean paid for, furnished, or provided by, or under the control of, the owner.

Temporary Housing shall mean any tent, trailer, recreational vehicle, or other structure used for human shelter that is designed to be transportable and is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) consecutive days or more than forty-five (45) cumulative days in any calendar year.

Sec. 150.143 SUBSTANDARD PROPERTY

- (A) Any building, equipment, structure or property, or portion thereof which, as the result of the development, use and/or conditions created thereon, exists any conditions that endangers the life, limb, health, property, safety or welfare of the public or occupants thereof, or violates any code or ordinance of the City, is hereby deemed substandard.
- (B) Substandard buildings, equipment, structures or properties shall be repaired, removed from service, vacated, demolished and/or abated to comply with provisions of this code and applicable ordinances of the City.
- (C) Where inspection discloses defective material or design, improper placement or unworkmanlike construction not conforming to the requirements of City ordinances, the nonconforming work or material shall be removed, replaced and re-inspected.
- (D) Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by City ordinance shall be determined by the Code Official.
- (E) Complaints alleging a violation may be generated by the public, city staff members, or personnel from other agencies.
- (F) Upon receiving a complaint of an alleged violation, the Code Official shall cause the property to be inspected.
- (G) A written inspection report noting any violations discovered on the property shall be forwarded to the Code Official to determine if the property is substandard. If the Code Official deems the property substandard he may:

- (1) Order the owner to abate, within a fixed period of time, violations of any provisions of this code and applicable ordinances of the City.
 - (2) Order the occupants to vacate the property if conditions represent an immediate danger to the occupants.
 - (3) Present charges to the Building and Standards Commission of violations of ordinances on the property. The Building and Standards Commission shall conduct a public hearing to consider the charges and/or order any necessary abatements.
- (H) Written notice of violation shall be served to the responsible party by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service. The notice of violation shall contain any orders to abate, repair, remove from service, and/or vacate affected properties.
- (I) If the property owner fails to repair, remove from service, vacate, demolish and/or abate substandard conditions on a property within the fixed period of time, the Code Official may present charges of violations of ordinances to the Building and Standards Commission. The Building and Standards Commission shall conduct a public hearing to consider the charges and issue orders necessary to abate substandard conditions. In addition, the property owner may be subject to penalties listed in this Chapter.

Sec. 150.144 COMMISSION CREATED; MEMBERSHIP; TERM OF OFFICE

- (A) Pursuant to the authority vested in the City under Texas Local Government Code Chapter 54, Subchapter C, a Building and Standards Commission is created which shall be composed of seven regular members appointed for staggered two-year terms.
- (B) The Commission shall appoint from its members a Chairperson and Vice Chairperson, who shall be selected at the January meeting of the Commission each year or when a vacancy occurs.

Sec. 150.145 AUTHORITY OF COMMISSION

- (A) The Building and Standards Commission shall have all powers, duties and responsibilities authorized by state law, it being the intent of the City to fully implement Texas Local Government Code, Chapter 54, Subchapter C, including specifically the authority to hear and determine cases concerning alleged violations of ordinances of the City:
1. For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits; or
 2. Relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits; or
 3. Relating to dangerously damaged or deteriorated buildings or improvements; or

4. Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
 5. Relating to a building code or to the condition, use, or appearance of property in a municipality; or
 6. Relating to animal care and control; or
 7. Relating to water conservation measures, including watering restrictions.
- (B) The Building and Standards Commission as created and provided for under the provisions of state law shall, in addition to the statutory duties and responsibilities, have such additional duties and responsibilities as shall be from time to time delegated by the City Council and shall, in addition, determine such issues and render decisions in accordance therewith which may be from time to time required of an appellate body. In such cases, a simple majority of the members of the Building and Standards Commission shall be sufficient to hear a case, unless by other law or ordinance a greater majority shall be required.

Sec. 150.146 NOTICE OF VIOLATIONS / PUBLIC HEARINGS

- (A) Whenever the Code Official determines there has been a violation of a federal, state, or local ordinance or code, or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this code and the amended Section 107 of the International Property Maintenance Code.
- (B) Notice of violation shall be served by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and/or to the person responsible for the violation as specified in this code.
- (C) If the notice of violation is returned unclaimed and not delivered, the notice of violation shall be served 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 door as practical. If the improvement is not a building, notice may be posted on a structure, equipment or premises.
- (D) Notice of public hearings before the Building and Standards Commission shall be served by personal delivery, certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk.
- (E) Notice of public hearings before the Building and Standards Commission shall be served 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 door as practical.
- (F) Notice of public hearings before the Building and Standards Commission shall be posted, personally delivered or mailed on or before the tenth day before the date fixed for the public hearing conducted by the Building and Standards Commission.

- (G) Notice of public hearings before the Building and Standards Commission shall be published in a newspaper of general circulation in the city, on one occasion on or before the tenth day before the date fixed for the public hearing.
- (H) Notice under this section may be in the form of a charging instrument and shall be in accordance with the following:
 - 1. Be in writing;
 - 2. Include the street address and/or legal description of the affected property;
 - 3. Include a general description of the improvements;
 - 4. Include a statement of the violation(s) and why the notice is being issued;
 - 5. Include the name and address of the owner(s) of the affected property, if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk;
 - 6. If known, include the occupant(s), and other persons interested in the affected property;
 - 7. Include the date, time and location of the proceedings before the Building and Standards Commission if the Code Official presented charges of violations before the Commission;
 - 8. Include any orders issued by the Code Official or the Building and Standards Commission with the approved period of time to comply with such orders;
 - 9. Include the property owner's right to appeal.
- (I) Notice of violations and/or orders pertaining to equipment removed from service by the code official shall be posted on or as near as practical to the equipment removed from service.
- (J) Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official.

Sec. 150.147 COMMISSION PROCEEDINGS

- (A) The Building and Standards Commission shall adopt rules and procedures in accordance with Tex. Loc. Gov't Code Chapter 54, Subchapter C, governing the conduct of hearings before the Commission.
- (B) Meetings of the Building and Standards Commission shall be held at the call of the Chairperson, the Code Official, and at other times as determined by the Commission. All of the meetings shall be open to the public. The Chairperson or in the Chairperson's absence, the Vice Chair or in the absence of the Vice Chair, another member selected as an Acting Chairperson may administer oaths and compel the attendance of witnesses.
- (C) The Building and Standards Commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The Building and Standards Commission shall keep records of its examinations and other official actions. The minutes and records shall be filed in the office of the city secretary as public record.

- (D) The concurring vote of a majority of the members present at a hearing of Building and Standards Commission is necessary to take any action.
- (E) At a public hearing, the City, acting through the Code Official, shall present charges to the Building and Standards Commission of alleged violations of ordinances on a property. The City shall present evidence and testimony supporting the alleged violations of ordinances on said property.
- (F) At a public hearing, the Building and Standards Commission shall provide ample opportunity for the presentation of evidence and testimony by respondents or persons opposing charges brought by the City relating to alleged violations of ordinances on said property.

Sec. 150.148 FINDINGS OF THE COMMISSION

- (A) Following the presentation of evidence and testimony at a public hearing, the Building and Standards Commission, by majority vote, may affirm or decline charges of alleged violations of City ordinances on a property.
- (B) If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the property is not in violation of applicable City codes, the Commission shall order that the enforcement action cease, provided, however, that such order shall neither prevent the Code Official from instituting a new enforcement action for other violations the Code Official alleges have been determined to exist, nor shall such order prevent the Code Official from instituting a new enforcement action for the same violations if the city manager later determines that the conditions as determined by the Commission have materially changed as to such violations.
- (C) If the Commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of applicable City ordinances, the Commission may:
 - (1) Declare a property substandard;
 - (2) Order the owner to abate or repair, within a fixed period, any ordinance violation identified on a property;
 - (3) Authorize the City to abate or repair, within a fixed period, any ordinance violation identified on a property;
 - (4) Order, in an appropriate case, the immediate removal of persons or property found on private property, entry 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;
 - (5) Issue orders or directives to the code official, 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 commission panel;
 - (6) Determine the amount and duration of the civil penalty the municipality may recover as provided by Texas Local Government Code, Chapter 54, Section 54.017; and

- (7) When the Commission finds defects or conditions of structures exist to the extent that the life, health, property, or safety of the public are endangered, condemn the substandard structures and authorize the City to remove the structures and bring the grounds to a clean and sanitary condition.
- (D) If, at the initial public hearing on a property, charges brought by the City relating to alleged violations of ordinances are contested by any party of record with an interest in the property the Building and Standards Commission shall, if it finds that the structure should be condemned, order the property owner to appear at a second hearing, not less than 28 days from the date of the first hearing, and show cause why the Building and Standards Commission shall not order the condemnation and removal of the substandard structure.
- (E) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days and the Commission allows the owner, lienholder or mortgagee more than thirty (30) days to repair, abate, remove or demolish a substandard structure, the Commission shall establish specific time schedules as the Commission determines are appropriate for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
- (F) If the owner, lienholder, or mortgagee establishes at the hearing that the complexity and scope of the work prohibits the completion of all required work within ninety (90) days and the Commission allows the owner, lienholder or mortgagee more than ninety (90) days to repair, abate, remove or demolish a substandard structure, the owner, lienholder or mortgagee shall:
- (1) Within a reasonable fixed period set by the Commission, submit a detailed plan of all repairs, abatement processes and/or demolitions required to comply with City ordinances; and
 - (2) Within a reasonable fixed period set by the Commission, submit a detailed time schedule for all repairs, abatement processes and/or demolitions required to comply with City ordinances; and
 - (3) Within a reasonable fixed period set by the Commission, secure all structures on the property in a reasonable manner from unauthorized entry while the work is being performed; and
 - (4) Maintain the property in a clean and sanitary condition during the performance of work including maintenance of the yard and other landscape on the property.
- (G) If the Commission grants an owner, lienholder or mortgagee, more than ninety (90) days to repair, abate, remove or demolish a substandard structure on property within the jurisdiction of the City and the value of the property and all improvements exceed fifty thousand dollars (\$50,000), the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond or letter of credit or third-party guaranty to cover the cost of the work ordered by the Commission.

Sec. 150.149 COMMISSION ORDERS

- (A) All orders of the Commission must allow a lienholder or mortgagee of record at least thirty (30) additional days to complete the ordered work in the event the owner fails to comply with the order within the time provided for action by owner, prior to remedial action by the City.
- (B) Contents of order. The order of the Commission must contain at minimum:
 - (1) An identification which is not required to be a legal description, of the building and the property on which it is located;
 - (2) A description of each violation of minimum standards present in the building;
 - (3) A description of each of the ordered actions, including a statement that the owner may repair, if determined feasible by the Commission, or demolish or remove at his option;
 - (4) If the order is that the building shall be removed or demolished, a statement of the Commission's finding that conditions exist to the extent that the life, health, property or safety of the public are endangered; and
 - (5) A statement that the City will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost of such actions to the owner and impose a lien against the property for all expenses incurred. Expenses shall include a nuisance abatement fee of \$100, an administrative fee of \$100, court/record filing fees and other actual expenses for each abatement/action performed on each individual lot or parcel of land.

Sec. 150.150 APPEALS

- (A) Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Cleburne Building and Standards Commission, provided that a written application for appeal is filed within thirty (30) calendar days after the day the decision, notice or order was served.
- (B) An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- (C) Appeals of notice and orders of the Code Official (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Building and Standards Commission.
- (D) The Building and Standards Commission shall conduct one or more public hearings to consider an appeal on a decision, notice or order of the Code Official and may issue any lawful order permitted by state law or this ordinance.
- (E) A copy of the final decision of the Building and Standards Commission shall be mailed by first class mail, certified return receipt requested, to all parties entitled to notice of the original public hearing.

- (F) All persons aggrieved of a final decision of the Building and Standards Commission may present a petition to any district court in Johnson County, duly verified, setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality.
- (G) A petition of review must be presented to a district court within thirty (30) calendar days of the date copies of the final decision are sent to interested parties.
- (H) If no appeals are taken from a final decision of the Building and Standards Commission within the required period, the decision of the Building and Standards Commission is, in all things, final and binding.

Secs. 150.151—150.179 RESERVED.

Sec. 150.999 PENALTY.

It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in §10.99 of this code.