

# City of Alvin, Texas

Paul Horn, Mayor

Gabe Adame, Mayor Pro-tem, District E  
Brad Richards, At Large Position 1  
Chris Sanger, At Large Position 2  
Scott Reed, District A



Adam Arendell, District B  
Keith Thompson, District C  
Glenn Starkey, District D

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## ALVIN CITY COUNCIL AGENDA THURSDAY, NOVEMBER 17, 2016 7:00 P.M. (Council Chambers)

**Alvin City Hall, 216 West Sealy, Alvin, Texas 77511**

*Persons with disabilities who plan to attend this meeting that will require special services please contact the City Clerk's Office at 281-388-4255 or [droberts@cityofalvin.com](mailto:droberts@cityofalvin.com) 48 hours prior to the meeting time. City Hall is wheel chair accessible and a sloped curb entry is available at the east and west entrances to City Hall.*

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NOTICE is hereby given of a Regular Meeting of the City Council of the City of Alvin, Texas, to be held on **Thursday, November 17, 2016** at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

### REGULAR MEETING AGENDA

1. **CALL TO ORDER**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENT**
4. **PRESENTATIONS**
  - A. Proclamation – Retirement of Police Captain Chad Fontenot.
  - B. Streets/Code Enforcement Departmental Update.
5. **CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION:** An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.
  - A. Approve minutes of the November 3, 2016 City Council regular meeting.
  - B. Consider bid award for the replacement of eight (8) police vehicles including all equipment and graphics to Caldwell Country Ford in an amount not to exceed \$283,630.
  - C. Consider leasing thirteen (13) non-emergency vehicles from Enterprise Fleet Management for a period of five (5) years for an annual cost of \$79,637 and a onetime cost of \$20,242 for the outfitting of specialized equipment.
6. **OTHER BUSINESS:**

Council may approve, discuss, refer, or postpone items under Other Business.

  - A. Consider adopting the Fiscal Year 2017 Implementation Action Plan of Strategic Projects for the Alvin 2035 Comprehensive Plan.

B. Discuss and direct staff concerning smoking near entrances and exits of public facilities.

**7. REPORTS FROM CITY MANAGER**

A. Review preliminary list of items for next Council meeting.

B. Items of Community Interest.

**8. REPORTS FROM COUNCIL MEMBERS**

Pursuant to S.B. No. 1182, City Council Members may make a report or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

A. Announcements and requests from Council members.

**9. ADJOURNMENT**

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City’s website: [www.alvin-tx.gov](http://www.alvin-tx.gov), in compliance with Chapter 551, Texas Government Code on MONDAY, NOVEMBER 14, 2016 at 4:30 P.M.



\_\_\_\_\_  
Dixie Roberts, City Clerk

Removal Date: \_\_\_\_\_

**\*\* All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**PARKS AND RECREATION**  
**BOARD MEETING MINUTES**

Alvin Public Service Facility

October 11, 2016

**Call to Order:** Meeting was called to order at 6:34 p.m.

**Roll Call:** Present: Dwight Rhodes, Cindy DeJohng, Debra Palin, Milton Morgan and Terrie Beasley. Also present Parks Director Dan Kelinske, Council Member Gabe Adame and Chris Vandagriff

**Minutes:** Ms. DeJohng made motion to approve minutes from September 13, 2016 meeting. Seconded by Ms. Beasley; motion passed.

**Petitions or Requests from the Public:** None at this time

**Director's Report:**

CAP Project changes: 11 space parking lot on Sidnor with 1 ADA space approved by Brazoria County Commissioners Court

Hexagonal Pavilion back ordered to October 20, 2016.

HGAC recognition for planning/nature.

LyondellBassell Project at Ruben Adame park September 10, 2016 - Swing set, new chairs and seats sanded and repainted, new pavilion installed.

New Alvin Parks Canopy

No Cook Thursday September 15, 2016 – approximately 200 people attended

Mother/Son Blast – 29 participated

Community Garden Fall Planting – 12-14 people attended

Depot Market Days – October 16, 2016

Alvin Clean Up – October 22, 2016 from 8:00 a.m. – 1:00 p.m.

Trick or Treat Trail – October 31, 2016 from 6:30 p.m. – 8:00 p.m.

Summer Program – participation numbers increased (1,000); online registration has increased, 98 withdrawals (decreased from previous).

FY Programs: 2<sup>nd</sup> increase since 2013, general enrollment down, online enrollment up, 798 withdrawals (40 refunded).

## **New Business:**

Citizens Survey: received 702 responses thus far.

Disc Golf: Councilmember Gabe Adame spoke on the revitalization of downtown and feels that a lighted disc golf course would help bring people to the downtown area, helping the Alvin community.

Chris Vandagriff, a National Corrosion Engineer and sponsored player by Innova, has played disc golf for 17 years. He has been selected to be an Ambassador for disc golf by other players. Mr. Vandagriff spoke to the board regarding the disc golf game.

Reasons to select National Oak Park as course site: amenities, possibly the 1<sup>st</sup> lighted course in U.S.A., 9 or 18-hole course, NOT a Champion course, would be on disc golf review (national website for disc golfers), running/walking track would be an obstacle (players like obstacles),

Briscoe would cost more money to course and would provide no obstacles, assure minimum out of bounds of discs, pedestrians being hit. Innova Disc Golf Company is the oldest disc golf company and is supported by Mr. Vandagriff.

Disc Golf Courses in area: Pearland/Friendswood/Baytown (all have premiere courses), Houston, Baytown hosts TX State Championships, Resoft Park 9-hole course not used, design is not good.

Positives for Disc Golf: bring more people to community due to players coming from other cities/communities, disc gold community comes together quickly, players help police area of play.

Disc golf course information: 2-3 baskets at beginning in National Oak Park, Council has devoted \$36,000 to project, baskets can be removed for events, T- Boxes are top quality (20-year warranty, if chains fail warranty will replace), signs along golf course, walking/running trail, use community businesses/charities to be sponsors to help with cost, include disc golf community to help with cost/upkeep.

Board Concerns: pedestrians are priority in park, National Oak Park is only non-sport park in Alvin, not much property owned by city around walking trail, Mr. Kelinske will submit plans with boundary lines to Mr. Vandagriff so that he can draw up a course



Office of the Mayor, City of Alvin, Texas

*Proclamation*

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**WHEREAS,** Chad Fontenot began his career in law enforcement in 1986 for the City of Alvin Police Department as a patrol officer rising through the ranks to attain the title of captain in 2011; and

**WHEREAS,** during his 30 years he has served in different capacities of the Alvin Police department including Bike Patrol, Swat Team, an officer of the Alvin Police Officer Association and interim Chief of Police in 2013; and

**WHEREAS,** He also served the Alvin community as a member of the Alvin-Manvel Chamber of Commerce and the Lion's Club; and

**WHEREAS,** the City of Alvin would like to thank Chad Fontenot for his contributions, dedication and commitment to the City of Alvin.

**NOW, THEREFORE,** I, Paul A. Horn, as Mayor of the City of Alvin Texas and on behalf of the City Council do hereby proclaim November 17, 2016 as

*Captain Chad Fontenot Day*

in The City of Alvin and do hereby congratulate Captain Chad Fontenot for his long distinguished service to the City of Alvin and wish him a happy and healthy retirement.

**WITNESS** my hand and seal this  
17th day of November, 2016.

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Paul A. Horn, Mayor

**MINUTES  
CITY OF ALVIN, TEXAS  
216 W. SEALY STREET  
REGULAR CITY COUNCIL MEETING  
THURSDAY NOVEMBER 3, 2016  
7:00 P.M.**

**CALL TO ORDER**

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in regular session at 7:00 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn, Mayor Pro-tem Gabe Adame; Council members: Brad Richards, Chris Sanger, Glenn Starkey, Adam Arendell, Scott Reed and Keith Thompson.

Staff members present: Sereniah Breland, City Manager; Bobbi Kacz, City Attorney; Junru Roland, CFO/Assistant City Manager; Dixie Roberts, City Clerk; Michelle Segovia, City Engineer; Dan Kelinske, Parks and Recreation Director; and Robert Lee, Police Chief.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Darren Shelton gave the invocation.

Council member Richards led the Pledge of Allegiance to the American Flag.

Council member Reed led the Pledge to the Texas Flag.

**PUBLIC COMMENT**

Mary Ann Madden-Green spoke in favor of the efforts of the Alvin Animal Adoption Center and center manager Autumn Miller and staff.

Deana Lopez commended the Alvin Animal Adoption Center's staff for their professionalism, participation in community adoption programs and maintaining a clean facility.

Linda Lopez, President of the Mutt Mesh Animal Rescue, read a letter from Dr. Susan Pickle, DVM, in support of the Alvin Animal Adoption Center's mission. Ms. Lopez also commended the adoption center's staff for their efforts in reaching out to the community and going the extra mile in caring for the animals at the shelter.

Michele McKee read a letter from Brooke Gray of Mile High Labrador Rescue in support of Autumn Miller and staff of the Alvin Animal Adoption Center.

Connie Hamilton spoke in support and commended the Alvin Animal Adoption Center's staff.

Evony Alvarado, student of Mark Twain Elementary, addressed the Council to explain the need for animal adoption center and to express support of the Alvin Animal Adoption Center.

Jade Anderson, student of Mark Twain Elementary, addressed the Council to explain the need for animal adoption center and to express support of the Alvin Animal Adoption Center.

Craig Zimmerman, student of Mark Twain Elementary, addressed the Council to explain the need for animal adoption center and to express support of the Alvin Animal Adoption Center.

Judy Zavala thanked members of Council for her recent appointment to the Senior Citizens Board and also praised members of staff at the Alvin Senior Center.

### **PRESENTATIONS**

#### **Proclamation – Retirement of Alternate Municipal Court Judge Bill Pannell.**

Mayor Horn presented a proclamation to Bill Pannell upon his retirement as Alternate Municipal Court Judge.

#### **Proclamation – Municipal Court Week.**

Mayor Horn presented a proclamation to Judge Donna Starkey and Municipal Court Clerk Sonya Cates declaring November 7-11, 2016 as Municipal Court Week.

#### **Proclamation – LyondellBasell.**

Mayor Horn presented a proclamation to members of the Lyondellbasell Corporation thanking them for their donation of volunteer labor and materials for improvements to the playground equipment and installation of a picnic pavilion at Ruben Adame Park.

#### **Citizens Academy**

Alexandra Aggor, Management Assistant gave a brief presentation regarding the new Citizens Academy program that will begin in 2017. This program will give citizens who participate an inside look at how the City of Alvin local city government works.

### **CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION**

#### **Approve minutes of the October 20, 2016 City Council regular meeting.**

**Consider a Final Plat of McCoy’s Alvin Subdivision (located on the northeast corner of FM 517 and Clifford Street), an 8.61 acre replat of lots “B” and “C”, Evelyn Acres, a subdivision out of the I. & G. N. R. R. Company Survey, Section 25, Abstract No. 620, Brazoria County, Texas, according to the plat of record in Volume 23, Page(s) 45 – 46 of the plat records of Brazoria County, Texas.**

*On September 1, 2016 the Engineering Department received the final plat of McCoy’s Alvin Subdivision for review. The property is located at the northeast corner of FM 517 and Clifford Street in the City of Alvin and is being platted for the development of a McCoy’s Building Supply Store on Reserve A. Reserves B and C are being platted for future commercial development that is to be determined. This plat complies with all requirements of the City’s Subdivision Ordinance.*

*The City Planning Commission unanimously approved the plat at their meeting October 18, 2016.*

**Consider Ordinance 16-AA; amending Chapter 17 ½ Signs; Article V. Sign Types; Division 2 – Temporary Signs; Section 17 ½ - 59 Special Event Signs; (c) Grand Opening Signs to reflect change to permitting process.**

*Chapter 17 ½ Signs; Article V. Sign Types; Division 2 – Temporary Signs; Section 17 ½ - 59 Special Event Signs; (c) Grand Opening Signs was initiated to assist new businesses coming to Alvin. This allows them a 14-day period to erect special signage permitted by the City for grand opening purposes. The permitting process originally was set up to require approval by the Economic Development Director for said signage. The permitting process is now better suited to allow the approval process to be directed to the Code Compliance Department.*

Council member Adame moved to approve the consent agenda as presented. Seconded by Council member Arendell; motion carried on a vote of 7 Ayes.

**OTHER BUSINESS:****Consider appointment of Alternate Municipal Court Judge(s) to serve on an interim basis.**

*Alternate Judge Bill Pannell has retired and the City is in the process of appointing a permanent alternate judge. However, the selection process is not complete and the Municipal Court will function more efficiently with a “temporary” judge(s). The Texas Code of Criminal Procedure details the duties of arresting peace officers and of magistrates regarding the rights of the accused. The law requires that in most circumstances, individuals in custody must be presented before a magistrate within 48 hours after their arrest. As magistrates, municipal judges are authorized to warn adult offenders of their respective rights as required by law. This requires municipal judges to handle daily jail proceedings. Judge Merkel performs the weekday jail arraignments as well as one weekend a month for the City. The remaining 3 weekends are handled by Judge Starkey and previously by Judge Pannell.*

*Judge John Vasut (Brazoria County Judge Precinct 2, Place 1, Manvel) and Judge Richard Davis (Brazoria County Judge Richard Davis Precinct 2, Place 2, Angleton) are both certified as municipal court judges, as well as Justices of the Peace in their respective precincts. Judge Vasut and Judge Davis each currently perform arraignments for county inmates in the Alvin city jail one designated weekend of the month. They are both willing to help the Municipal Court on an interim basis until a permanent alternate judge is appointed. As an alternate judge, their duties will consist of arraigning city inmates in the City jail as well as the county inmates during their currently scheduled weekends, thus, they are not requesting any compensation at this time. To perform this function, even though it is on an interim basis, council action is required to appoint alternate judges of the City’s Municipal Court.*

Council member Thompson moved to appoint Judge Richard Davis and Judge John Vasut as Alternate Municipal Court Judge(s) to serve on an interim basis. Seconded by Council member Richards; motion carried on a vote of 7 Ayes.

**Consider appointment to fill the vacancy of an unexpired term on the Planning Commission.**

*A Planning Commission member was appointed to serve a two (2) year term on the Planning Commission in December, 2014. Unfortunately, due to his work schedule he has missed three (3) consecutive meetings. According to the City Charter, members who miss three (3) consecutive meetings are automatically removed from the commission. A phone call was provided and a letter was sent via U.S. mail to notify him and to also thank him for his service on the commission.*

*Article VIII – Section 3 of the Charter states: Vacancies occurring in the commission shall be filled within thirty (30) days by the council for the remainder of the unexpired term. Membership shall be accompanied by active participation in the activities of the commission, and any member who is absent from three (3) consecutive regular meetings shall automatically be dropped from membership and the commission shall immediately notify the council that a vacancy exists.*

*The Charter also states that the commission shall consist of at least five (5) members nor more than fifteen (15) members. City Council will appoint members to boards and commissions in December, 2016. This vacancy can remain vacant until that time, or City Council can appoint a member to fill the vacancy until December, or Council can decide to not fill this position at all since the minimum board member requirement has been met. Charter requires that members of the commission be residents of the City of Alvin.*

*The current board members are: Charles Buckelew, Chair, Missy Jordan, Vice Chair, Darrell Dailey, Santos Garza, Robin Revak-Golden, Chris Hartman, Sussie Sutton, and Martin Vela. This vacancy has been advertised on all of the city’s social media accounts.*

*Nicole Kelinske, Jake Starkey, and Kerry Ulm have submitted a Consent and Willingness to Serve Form to specifically serve on the Planning Commission.*

Council member Thompson moved to table this item until boards and commissions are appointed in December. Seconded by Council member Sanger; motion failed with a vote of 6 No’s and Council member Sanger voting Aye.

Council member Arendell moved to reappoint Randall Reed to fill the vacancy of an unexpired term on the Planning Commission. Seconded by Council member Richards; motion carried on a vote of 6 Ayes with Council member Sanger voting No.

### **REPORTS FROM CITY MANAGER**

Review preliminary list of items for next Council meeting.

Ms. Breland reviewed the preliminary list for the November 17, 2016 City Council meeting.

Items of Community Interest.

Ms. Roberts reviewed items of community interest.

### **REPORTS FROM COUNCIL MEMBERS**

Announcements and requests from Council members.

Council member Thompson thanked Judge Bill Pannell for his service to the City of Alvin. He also applauded city employees for the job they do day in and day out.

Council member Reed thanked members of the public for coming out and speaking on behalf of the Alvin Animal Adoption Center. He also thanked the youth for coming out and making their voices heard.

Council member Arendell thanked Judge Pannell for his service to the City and also thanked the youth for coming out to speak before City Council regarding the Alvin Animal Adoption Center. Council member Arendell asked if policies and agreements such as the Collective Bargaining Agreement could be periodically reviewed to insure such agreements are working for all parties involved.

Council member Richards thanked Bill Pannell for his time and dedication to the City. He also thanked staff for the great job done on the Trick or Treat Trail event.

Council member Sanger thanked Judge Pannell for his service to the City.

Council member Adame thanked Judge Bill Pannell for his service to the City of Alvin and also thanked the youth for speaking before City Council this evening. He thanked Lyondell Bassell for their service project at the Ruben Adame Park and explained that this park was named after his grandfather's brother who was a Marine Veteran who died in service to his Country.

Council member Starkey thanked Judge Pannell for his service. He also commended Assistant City Manager Junru Roland for going out into the field to read meters.

### **EXECUTIVE SESSION**

Mayor Horn called for an executive session at 8:05 p.m. in accordance to the following:

Section 551.072 of the Government Code: Deliberation regarding the purchase, exchange, lease or value of real property.

### **RECONVENE TO OPEN SESSION**

Mayor Horn reconvened the meeting into open session at 8:22 p.m.

Direct staff to take necessary steps for possible sale of public property.

No action taken.

**ADJOURNMENT**

Council member Thompson moved to adjourn the meeting at 8:22 p.m. Seconded by Council member Arendell; motion carried on a vote of 7 Ayes.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Paul A. Horn, Mayor

ATTEST: \_\_\_\_\_  
Dixie Roberts, City Clerk



# AGENDA COMMENTARY

**Meeting Date:** 11/17/2016

**Department:** Police Department/Public Services    **Contact:** Brian Smith, Director of Public Services

**Agenda Item:** Consider bid award for the replacement of eight (8) Police Vehicles including the transfer of all equipment and graphics to Caldwell Country Ford in an amount not to exceed \$283,630.

**Type of Item:**  Ordinance    Resolution    Contract/Agreement    Public Hearing    Discussion & Direction

**Summary:** On October 18, 2016 bids were opened and Caldwell Country Ford was the lowest and only bidder with a bid totaling \$214,500. Bid packages were advertised and sent to local businesses in an effort to keep business local. Buy Board quotes were also received after the bidding process to compare pricing totaling \$218,785 plus an \$800 Buy Board fee. A cost savings of \$4,285 was identified through bidding vs. Buy Board quotes. The equipment from the police vehicles in use today will be transferred to the new vehicles. All equipment has a five (5) year warranty and is scheduled for replacement every six (6) years or on the third replacement. This replacement will qualify as the second replacement and all equipment on the next rotation of replacement will be replaced with new. The eight (8) vehicles being replaced are scheduled for replacement in the current vehicle replacement program and were approved during the FY17 budget process.

**Funding Expected:** Revenue \_\_\_ Expenditure x N/A \_\_\_    **Budgeted Item:** Yes x No \_\_\_ N/A \_\_\_

**Funding Account:** \_\_\_\_\_ **Amount:** \_\_\_\_\_    **1295 Form Required?** Yes \_\_\_ No \_\_\_

**Legal Review Required:** N/A \_\_\_ Required \_\_\_    **Date Completed:** \_\_\_\_\_

**Supporting documents attached:**

- Bid Proposal
- EVS Equipment Transfer Proposals
- Buy Board Quote

**Recommendation:** Move to award a bid to Caldwell Country Ford for the replacement of eight (8) Police vehicles including the transfer of all equipment and graphics in an amount not to exceed \$283,630.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

# BID PROPOSAL

In addition to providing Unit Price and Item Total, vendor/bidder must also specify Manufacturer and Stock number bid.

Item No.	Item Description	Est. Quantity	Unit Price	Item Total
1	FORD POLICE SUV w/option	Seven	\$ 26,945	\$ 188,615
2	FORD INTERCEPTOR SEDAN AWD w/option	One	<del>\$ 25,885</del> (AK) \$ 25,885	\$ 25,885
<b>GRAND TOTAL</b>				\$ 214,500

We quote the above FOB Alvin, Texas. Shipment can be made in 120 days from receipt of order  
 Terms net if not otherwise indicated. The bidder agrees that award of any items, all or in part, by the City of Alvin, Texas, within a reasonable period of time constitutes a contract.

**BIDDER:** Caldwell Country Ford

**ADDRESS:** PO Box 27 Caldwell, TX 77036

**PHONE NO.** 979-567-6116

**FAX NUMBER** 979-567-0053

Averyt Knapp  
 AUTHORIZED REPRESENTATIVE

Fleet Director  
 TITLE

[Signature]  
 AUTHORIZED SIGNATURE

10/17/2016  
 DATE

QUOTE# 001

CONTRACT PRICING WORKSHEET

End User: CITY OF ALVIN			Contractor: CALDWELL COUNTRY		
Contact Name: BRIAN SMITH			CALDWELL COUNTRY		
Email: <a href="mailto:BSMITH@PSF.CITYOFALVIN.COM">BSMITH@PSF.CITYOFALVIN.COM</a>			Prepared By: Averyt Knapp		
Phone #: 281-388-4315			Email: aknapp@caldwellcountry.com		
Fax #:			Phone #: 979-567-6116		
Location City & State: ALVIN, TX			Fax #: 979-567-0853		
Date Prepared: NOVEMBER 7, 2016			Address: P. O. Box 27, Caldwell, TX 77836		
Contract Number: BUY BOARD #430-13			Tax ID #		
Product Description: 2017 FORD EXPLORER PPV K8A					
A Base Price & Options:					\$27,410
B Fleet Quote Option:					
Code	Description	Cost	Code	Description	Cost
	PPV-AWD, LED SPOTLIGHT, 3.7L-V6, AUXILARY REAR A/C, FRONT HEADLAMP HOUSING PROVISION, WHITE SIDE DOORS & ROOF, KEYED ALIKE, DARK CAR FEATURE, REAR VIEW CAMERA	INCL			
	FORD WARRANTY 5YR/100,000 MILES POWERTRAIN @ N/C	INCL		CALDWELL COUNTRY PO BOX 27 CALDWELL, TEXAS 77836	
Subtotal B					INCL
C Unpublished Options					
Code	Description	Cost	Code	Description	Cost
Subtotal C					
D Other Price Adjustments (Installation, Delivery, Etc...)					
Subtotal D					INCL
E Unit Cost Before Fee & Non-Equipment Charges(A+B+C+D)					\$27,410
Quantity Ordered					7
Subtotal E					\$191,870
F Non-Equipment Charges (Trade-In, Warranty, Etc...)					
BUY BOARD					\$400

G. Color of Vehicle: BLACK & WHITE (4DRS & ROOF)		
H. Total Purchase Price (E+F)		\$192,270
Estimated Delivery Date:		120 DAYS APPX

QUOTE# 002

CONTRACT PRICING WORKSHEET

End User: CITY OF ALVIN			Contractor: CALDWELL COUNTRY		
Contact Name: BRIAN SMITH			CALDWELL COUNTRY		
Email: <a href="mailto:BSMITH@PSF.CITYOFALVIN.COM">BSMITH@PSF.CITYOFALVIN.COM</a>			Prepared By: Averyt Knapp		
Phone #: 281-388-4315			Email: aknapp@caldwellcountry.com		
Fax #:			Phone #: 979-567-6116		
Location City & State: ALVIN, TX			Fax #: 979-567-0853		
Date Prepared: NOVEMBER 7, 2016			Address: P. O. Box 27, Caldwell, TX 77836		
Contract Number: BUY BOARD #430-13			Tax ID #		
Product Description: 2017 FORD TAURUS PPV P2M					
A Base Price & Options:					\$26,115
B Fleet Quote Option:					
Code	Description	Cost	Code	Description	Cost
	PPV-AWD, LED SPOTLIGHT, ECOBOOST V6, FRONT HEADLAMP HOUSING PROVISION, BADGE DELETE, KEYLED ALIKE, TRUNK RELEASE, DARK CAR, REAR VISION CAMERA	INCL			
	FORD WARRANTY 5YR/100,000 MILES POWERTRAIN @ N/C	INCL		CALDWELL COUNTRY PO BOX 27 CALDWELL, TEXAS 77836	
Subtotal B					INCL
C Unpublished Options					
Code	Description	Cost	Code	Description	Cost
Subtotal C					
D Other Price Adjustments (Installation, Delivery, Etc...)					
Subtotal D					INCL
E Unit Cost Before Fee & Non-Equipment Charges(A+B+C+D)					\$26,115
Quantity Ordered					1
Subtotal E					\$26,115
F Non-Equipment Charges (Trade-In, Warranty, Etc...)					
BUY BOARD					\$400
G. Color of Vehicle: BLACK					

H. Total Purchase Price (E+F)		\$26,515
Estimated Delivery Date:		120 DAYS APPX



# AGENDA COMMENTARY

**Meeting Date:** 11/17/2016

**Department:** Public Services

**Contact:** Brian Smith, Director of Public Services

**Agenda Item:** Consider leasing thirteen (13) non-emergency vehicles from Enterprise Fleet Management for a period of five (5) years for an annual cost of \$79,637 and a onetime fee of \$20,242 for the outfitting of specialized equipment.

**Type of Item:**  Ordinance  Resolution  Contract/Agreement  Public Hearing  Discussion & Direction

**Summary:** On January 7, 2016 the City entered into an agreement using TIPS/TAPS with Enterprise Fleet Management program for the lease of five (5) non-emergency vehicles on a trial basis. Throughout this past year city staff has evaluated the program and customer service provided through this program. It has proven to be an exceptional program. The lease program has allowed the city's central shop to direct its main focus on emergency vehicles and heavy equipment instead of non-emergency vehicles with just five (5) vehicles removed from the maintenance schedule. The additional (13) thirteen vehicle lease will allow for even more focus on emergency service vehicles and will also provide an additional savings to the City. An annual lease cost for the additional thirteen (13) non-emergency vehicles is \$79,637.16 plus a one-time cost of \$20,242 for the outfitting of specialized equipment (utility bed, crane and flatbed) compared to the traditional one time purchase cost of \$569,686. Over a five (5) year replacement cost through the in-house lease program it would cost the City \$569,686 compared to the five (5) year lease at \$418,427.80 and comes with a cost savings to the City of \$151,258.20. This program also reduces the years of service for a vehicle from 10-15 year replacement cycle to five (5) years. The reduction in replacement will allow for lower cost maintenance to the City, better fuel efficiency (fuel savings not included in savings above) and an updated fleet. Through the Enterprise lease program all vehicles are purchased and maintained using local businesses. All thirteen (13) vehicles scheduled for replacement were scheduled to be replaced through the FY17 budget process.

**Funding Expected:** Revenue \_\_\_ Expenditure x N/A \_\_\_ **Budgeted Item:** Yes x No \_\_\_ N/A \_\_\_

**Funding Account:** \_\_\_\_\_ **Amount:** \_\_\_\_\_ **1295 Form Required?** Yes \_\_\_ No x

**Legal Review Required:** N/A x Required \_\_\_ **Date Completed:** \_\_\_\_\_

**Supporting documents attached:**

- Enterprise Lease Menu Pricing
- Flatbed Up Fit Pricing
- Crane Up Fit Pricing

**Recommendation:** Move to approve the leasing of thirteen (13) non-emergency vehicles from Enterprise Fleet Management for a period of five (5) years for an annual cost of \$79,637 and a onetime fee of \$20,242 for the outfitting of specialized equipment.

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Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager



## City of Alvin Menu Pricing

### Equity Lease Menu Pricing

Vehicle Type	Year	Make	Model	Trim Level
1 Ton Cab Chassis	2017	Ford	F-350 Chassis Regular Cab w/Utility Bed	W3G-XL 4x2 SD Crew Cab 176 in. WB DRW
Mid Size SUV 4x2	2017	Ford	Explorer	K7B-Base 4dr Front-wheel Drive
3/4 Ton Pickup Quad 4x4	2017	Ford	F-250 Crew Cab	W2B-XL 4x4 SD Crew Cab 8 ft. box 172 in. WB SRW
Mid Size SUV 4x2	2016	Ford	Edge	K3G-SE 4dr Front-wheel Drive
1/2 Ton Pickup Reg 4x2	2017	Ford	F-150 Regular Cab	F1C-XL 4x2 Regular Cab Styleside 8 ft. box 141 in. WB
1 Ton Cab Chassis	2017	Ford	F-350 Chassis Regular Cab w/Flatbed	F3G-XL 4x2 SD Regular Cab 141 in. WB DRW
1 1/2 Ton Cab Chassis	2017	Ford	F-450 Chassis Regular Cab	F4G-XL 4x2 SD Regular Cab 165 in. WB DRW

Quantity	Term	Estimated Annual Mileage	Monthly Cost (Lease Payment)	Full Maintenance	Annual Cost Including Maintenance	Annual Cost by Quantity
1	60	10000	\$499.46	\$45.80	\$6,543.12	6,543.12
2	60	10000	\$427.36	\$37.17	\$5,574.36	11,148.72
1	60	10000	\$492.74	\$44.16	\$6,442.80	6,442.80
6	60	10000	\$430.06	\$35.75	\$5,589.72	33,538.32
1	60	10000	\$355.24	\$37.17	\$4,708.92	4,708.92
1	60	10000	\$500.93	\$45.80	\$6,560.76	6,560.76
1	60	10000	\$833.78	\$57.43	\$10,694.52	10,694.52

Lease rates are based upon 2017 factory order pricing (excluding Ford Edge, for out of stock) and miles per year

Maintenance includes one sets of brakes ever 26,000 miles and no tires

Pricing does not include any applicable taxes

Pricing does not include expected return on equity at end of lease

<b>Annual Cost Including Maintenance</b>	<b>\$79,637.16</b>
<b>Estimated Equity For Vehicles Being Replaced</b>	<b>????</b>
<b>Upfront Aftermarket Cost</b>	<b>\$20,242.00</b>



**To :**

**ENTERPRISE FLEET SERVICES  
 10401 CENTERPARK DRIVE SUITE #200  
 Houston TX 77043  
 United States**

**Quotation Valid Thru : 06/06/2016**

**Attention : CAROLINA BLUMBERG**

*We are pleased to quote your requirements as shown below. Our company has a reputation for delivering quality products on time and we look forward to the opportunity of serving you.*

*Prices do not include any Federal, State, or Local taxes unless otherwise indicated.*

Item	Facility / Part / Rev / Description / Details	Quantity Quoted	Unit Price	Extended Price
001	<p><b>Default</b>  <b>INSTALL C84DW94ML</b> Rev NS U/M EA            TO BE INSTALLED ON AN F450 84" C.A. FORD CHASSIS</p> <p>11FT RAWSON KOENIG CRANE BODY MODEL C84DW94ML            CRANE REINFORCEMENT ON TOP OF RIGHT REAR COMPT.            8" TREADPLATE BUMPER (NOT RATED FOR TOWING)            4 COMPARTMENTS PER SIDE, 20" DEEP COMPARTMENTS            54" WIDE STEEL TREADPLATE FLOORING            CRANE BODY SHELIVING PACKAGE SLFC2            LIGHTS AND REFLECTORS, GENERAL BODY MUD FLAPS            TREADPLATE TOPS, BED WALLS &amp; TAILGATE            HEAVY DUTY RECEIVER &amp; 7WAY PLUG            PAINT OUTSIDE WHITE TO MATCH CAB            MANUAL OUT CRANK DOWN OUTRIGGERS, BOOM SUPPORT</p> <p>STELLAR EC5000 ELECTRIC/HYDRAULIC CRANE, 5000LB            CAPACITY @ 5FT, 20FT REACH WITH FULL POWER,            SWIVELING TRAVEL BLOCK WITH LATCH, PLUG IN HAND            WIRELESS REMOTE CONTROL, AUTO OVERLOAD PROTECTION.            SPRINGWORK TO LEVEL CHASSIS            GB FABRICATED HEADACHE RACK AT FRONT OF BODY            BLACK NERF BARS ON CAB FOR ACCESS            WEIGHT SLIP &amp; CERTIFICATION</p>	1.0000	36,634.0000	US\$ 36,634.00

**Total Items Price US\$ 36,634.00**

Thanks again for your interest in our company as one of your suppliers.

Prices do not include any Federal, State, or Local taxes unless otherwise indicated.





# AGENDA COMMENTARY

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**Meeting Date:** 11/17/2016

**Department:** Economic Development      **Contact:** Larry Buehler, Director of Economic Develop.

**Agenda Item:** Consider adopting the Fiscal Year 2017 Implementation Action Plan of Strategic Projects for the Alvin 2035 Comprehensive Plan.

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**Type of Item:**  Ordinance    Resolution    Contract/Agreement    Public Hearing    Discussion & Direction

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**Summary:** The City Council approved Ordinance 14-CC, adopting the City of Alvin 2035 Comprehensive Plan on October 2, 2014. Since then, sixteen action plan items were consolidated into strategic projects and initiated by staff under the leadership of the city manager.

**Three strategic projects have been completed:**

- Neighborhood Outreach Program – pursue multiple ways to maintain communication links to neighborhood leaders and representatives to have a better understanding of the City’s efforts to maintain quality infrastructure and community development by being better informed of the City’s activity.
- Alvin Thoroughfare Plan, Phase One - Included proposed new roadway locations, existing roadway expansions, roadway classifications/typical roadway sections, and identify roadways to be constructed by other entities to increase mobility and ease traffic congestion as the City continues to grow.
- Utility Master Plan - Include proposed new water capacity, pumping stations, elevated storage site, I&I, water and sewer availability and the Capital Improvement Plan (CIP) for future water and wastewater needs.

**Three strategic projects continue to be worked:**

- Update of the Dangerous Building Ordinance - Streamline the process for addressing unsafe or dilapidated structures in accordance with the new laws regarding dangerous buildings.
- Tree Ordinance – Create design criteria to include drought-resistance species & provide for mature tree preservation.
- Parks Standard Manual - Develop a manual that outlines equipment, branding and design requirements throughout the park system to enhance neighborhood viability.

**For fiscal year 2017, staff added four additional strategic projects:**

- Parks Annual Operations and Maintenance Plan – Include physical assessment, maintenance schedule, and a funding and resource assessment.
- Alvin Thoroughfare Plan Phase Two – Will outline the sequence of roadway/mobility improvements.
- Downtown Improvements – Implementation of several elements of the Task Force recommendations.

- Walkability – Improve neighborhoods with a sequencing plan of sidewalk improvements.

These strategic projects are reported quarterly by the city manager to the Planning Commission and City Council.

On October 18<sup>th</sup>, the City Manager presented to the Planning Commission. They voted to recommend to council the Fiscal Year 2017 Alvin 2035 Comprehensive Plan Implementation Action Plan Strategic Projects.

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**Funding Expected:** Revenue \_\_\_ Expenditure \_\_\_ N/A X **Budgeted Item:** Yes X No \_\_\_ N/A \_\_\_

**Funding Account:** Various accounts **Amount:** \_\_\_\_\_ **1295 Form Required?** Yes \_\_\_ No X

**Legal Review Required:** N/A X Required \_\_\_ **Date Completed:** \_\_\_\_\_

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**Supporting documents attached:**

- Strategic Project Overview

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**Recommendation:** Move to adopt the Fiscal Year 2017 Implementation Action Plan of Strategic Projects for the Alvin 2035 Comprehensive Plan.

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Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

## FY17 STRATEGIC PROJECT WORKSHEET OVERVIEW

PARKS STANDARD				
Project Scope	To develop a manual that outlines equipment, branding and design requirements throughout the park			
Background/Community Value	By developing a park standards manual that outlines equipment standards (types and finishes), branding guidelines, and design requirements, the Alvin park system will maintain a consistent level of quality, maintenance, and desirable aesthetic appeal. This will help sustain and improve the quality, condition and attractive appearance of public areas and facilities within our community			
Team Leader and Members	Dan Kelinske, Parks & Rec. Dir., Team Leader; Carlos Tavira, Park Operations Manager; Michelle Nesrsta, Recreation Manager; Dwight Rhodes, Chairperson Parks and Recreation board;			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Continue to assist Kendig Keast Collaborative in gathering and investigating information and provide final draft in December 2016 for approval.			

TREE ORDINANCE				
Project Scope	To Develop an ordinance in an effort to preserve and protection for arbor beautification.			
Background/Community Value	The efforts of Keep Alvin Beautiful, the Land Use Corridor Ordinance and the Comprehensive Plan have resulted in the desire for an ordinance that celebrates history, beautifies our community and enhances property value. Healthy trees reduce air and noise pollution, provide energy-saving shade and cooling, furnish habitat for wildlife, enhance aesthetics and property values, and are an important contributor to community image, pride, and quality of life.			
Team Leader and Members	Dan Kelinske, Parks & Rec. Dir., Team Leader; Brian Smith, Public Service Director; Michelle Segovia, City Engineer; Adam Burkey, KAB Rep.			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Team has finalized a draft preparation for City Council consideration and approval by December 2016.			

## PARKS ANNUAL OPERATION AND MAINTENANCE PLAN

Project Scope	Develop an annual operation and maintenance plan for Alvin's parks system, including provisions for regular physical condition assessments of grounds and facilities, equipment safety inspections, maintenance scheduling and personal tracking and funding and resource assessment.			
Background/Community Value	Items 9 and 14 from the 2035 Comp Plan help create standardized criteria of maintenance and improvements of parks to enhance neighborhood viability. To illustrate, "item 9" encourages staff to focus on park and recreation improvements as a means for elevating neighborhood viability. Also, "item 14" directs staff to develop a park standards manual that outlines equipment standards (types and finishes), branding guidelines, and design requirements so that the Alvin park system maintains a consistent level of quality, maintenance and aesthetic appeal. By developing a park standards manual that outlines equipment standards (types and finishes), branding guidelines, and design requirements, the Alvin park system will maintain a consistent level of quality, maintenance, and desirable aesthetic appeal. This will help sustain and improve the quality, condition and attractive appearance of public areas and facilities within our community.			
Team Leader and Members	Dan Kelinske, Parks & Rec. Dir., Team Leader; Carlos Tavira, Park Operations Manager; Michelle Nestrta, Recreation Manager; Dwight Rhodes, Chairperson Parks and Recreation board.			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Host team meeting in December, once Park Standards Manuel is completed to begin information gathering, establish processes and overall plan outline.			

## WALKABILITY

Project Scope	Improve the walkability of neighborhoods with the installation of sidewalks concurrent with all new development and rehabilitation or construction of construction of new sidewalks in the older neighborhoods, particularly adjacent to schools and parks.			
Background/Community Value	Provide safe areas to walk in and around the older sections of town where pedestrians are frequently observed.			
Team Leader and Members	Michelle Segovia, City Engineer, Team Leader; Brian Smith, Public Services Director			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Project Areas currently being surveyed to identify right-of-way.			

## THOROUGHFARE PLAN PHASE II

Project Scope	Klotz Associates in conjunction with City Staff is currently working on Phase II of this two phase Thoroughfare Plan Update which includes the preparation of an Implementation Plan with cost estimates, a Capital Improvements Program (CIP), and the development of funding options including Transportation Improvement Program (TIP) submittals to the Houston Galveston Area Council (HGAC) and is scheduled to be complete March 15, 2018.			
Background/Community Value	The Thoroughfare Plan Update was identified as a near term (less than two years) project in the 2035 Comprehensive Plan. The Thoroughfare Plan benefits the community by establishing a plan for future roadway projects that will increase mobility and ease traffic congestion as the City continues to grow			
Team Leader and Members	Michelle Segovia, City Engineer, Team Leader; David Balmos, Project Manager Klotz Associates; Brian Smith, Public Services Director			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	David Balmos to submit draft of the Implementation Plan by 12/31/2016.			

## DOWNTOWN IMPROVEMENTS

Project Scope	Create a distinct identity of Downtown, including forming an identifiable edge to the district with monuments and gateway treatments at the entries from each direction (particularly along Business 35 at the northern and southern entries and Sealy street from the west and House street for the east), along with unifying design elements, such as unique signage and banners, landscaping decorative lighting, street and sidewalk/crosswalk patterns and other unique urban design treatments.			
Background/Community Value	Through citizen's input and initial analysis of downtown Alvin, a framework from which to envision a revitalization has been established. The analysis provided an objective view of the study area from varying scales. Both strength and weaknesses were revealed. The Downtown Improvement Task Force's feedback helped bring us closer to discovering Downtown Alvin's full potential.			
Team Leader and Members	Larry Buehler, Economic Development Dir, Team Leader; Julie Siggers, Convention Visitor Bureau			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Vision and Next Steps were presented to City Council. Currently reviewing current task force and seeking potential new members and identifying projects.			

**DANGEROUS BUILDING ORDINANCE**

Project Scope	Update of the Dangerous Building Ordinance to streamline the process for addressing unsafe or dilapidated structures			
Background/Community Value	This update to the Dangerous Building Ordinance was identified as the #1 item on the 2035 Comprehensive Plan.			
Team Leader and Members	Kacey Roman, Code Compliance Supervisor; Mike Collins, Building Official			
Quarterly Updates	1 <sup>st</sup> Qtr. due by 9/29/2016	2 <sup>nd</sup> Qtr. due by 12/29/2016	3 <sup>rd</sup> Qtr. Due by 03/30/2016	4 <sup>th</sup> Qtr. due by 06/29/2016
	Ordinance recommendation on hold per legal opinion and current litigation in another Texas. City.			



# AGENDA COMMENTARY

**Meeting Date:** 11/17/2016

**Department:** City Clerk

**Contact:** Dixie Roberts, City Clerk

**Agenda Item:** Discuss and direct staff concerning smoking near entrances and exits of public facilities.

**Type of Item:**  Ordinance  Resolution  Contract/Agreement  Public Hearing  Discussion & Direction

**Summary:** Council member Arendell asked for this item to be placed on the agenda for Council discussion because of a complaint received regarding people smoking near the entrance/exit of city owned facilities.

Section 12-16 of the Code of Ordinances prohibits smoking in city facilities. However, it does not address the areas near the ingress/egress of public facilities.

Alvin Community College has joined a national movement to address smoking and tobacco use at community college campuses throughout the United States. At the June Board of Regents meeting, ACC adopted a 100-percent smoke-free and tobacco-free policy which will be implemented throughout the coming academic year.

Alvin Independent School District prohibits smoking and the use of tobacco products and e-cigarettes on District property, in District vehicles, or at school related activities.

UTMB Health prohibits smoking and the use of tobacco products at their facilities.

Examples of ordinances adopted by other municipalities that further prohibit the use of tobacco products on public property have been included in your packet for review.

Staff is considering a policy that addresses employees use of tobacco in and near entrances of facilities and intends to bring that to Council in upcoming months. Currently, the City has a policy regarding use of tobacco in city vehicles by employees but not the same restrictions for public property and facilities. Staff recommends that if Council desires to limit smoking in front of entrances for the public that we do that separate of employee requirements as the process for violation would be different.

Staff seeks Council direction regarding the implementation of further tobacco use restrictions by the public near or on public facility property.

**Funding Expected:** Revenue \_\_\_ Expenditure \_\_\_ N/A  **Budgeted Item:** Yes \_\_\_ No \_\_\_ N/A

**Funding Account:** \_\_\_\_\_ **Amount:** \_\_\_\_\_ **1295 Form Required?** Yes \_\_\_ No

**Legal Review Required:** N/A  Required \_\_\_ **Date Completed:** \_\_\_\_\_

## Supporting documents attached:

- Sample Ordinances from: Angleton, Carrollton, Kemah, Tomball and West University Place.

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**Recommendation:** N/A

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Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

## ARTICLE II. - SMOKING IN CITY FACILITIES<sup>[2]</sup>

Footnotes:

--- (2) ---

**Editor's note**— Ord. No. 14-P, § 2, adopted June 19, 2014, amended Art. II in its entirety to read as set out herein. Former Art. II, §§ 12-15—12-17, pertained to similar subject matter and derived from Ord. No. 94-N, § 2, adopted April 21, 1994.

Sec. 12-15. - Definitions.

As used in this article, the following words and terms shall have the meanings set forth in this section:

*City facility or facilities* means all buildings and/or structures owned or operated by or under the control of the city.

*Electronic cigarette or electronic vaping device* means any electronically, battery or mechanically powered device that uses an atomizer or similar device allowing users to inhale nicotine vapor, or any other vapor, to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars), and any other type of electronic nicotine or vapor delivery system, or any part thereof.

*Smoke or smoking* means the carrying, possessing or holding of any cigar, cigarette, pipe, tobacco product, electronic cigarette or e-cigarette or liquid nicotine of any kind, which is burning or emitting a vapor or the exhalation of any smoke or vapor produced from any cigar, cigarette, pipe, tobacco product, electronic cigarette or e-cigarette.

(Ord. No. 14-P, § 2, 6-19-14)

Sec. 12-16. - Smoking prohibited in city facilities; penalty.

- (a) A person commits an offense if the person intentionally or knowingly smokes in a city facility.
- (b) Any person violating any provision of this section shall be punished as prescribed by section 1-5 of the Code of Ordinances of the city.

(Ord. No. 14-P, § 2, 6-19-14)

Sec. 12-17. - Signs.

Signs shall be visibly placed at or near a public entrance to city facilities to notify persons entering the premises that smoking is prohibited.

(Ord. No. 14-P, § 2, 6-19-14)

Secs. 12-18, 12-19. - Reserved.

## ARTICLE III. - SMOKING IN RESTAURANTS<sup>[3]</sup>

Footnotes:

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**Editor's note**— Ord. No. 14-P, § 3, adopted June 19, 2014, amended Art. III in its entirety to read as set out herein. Former Art. III, §§ 12-20—12-25, pertained to similar subject matter and derived from Ord. No. 99-GGG, § 2, adopted Oct. 21, 1999; Ord. No. 00-ZZ, §§ 1—3, adopted Jan. 11, 2001.

Sec. 12-20. - Definitions.

As used in this article, the following words and terms shall have the meanings set forth in this section:

*Bar* means an establishment which has more than seventy (70) percent of its annual gross sales in alcoholic beverages and which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admittance unless accompanied by a parent or legal guardian. Restaurants that contain a bar are not considered a "bar" because minors are admitted in these areas.

*Dining area* means any area in which meals or entrees are served, but shall not include areas where the incidental service of hors d'oeuvres, snacks, pretzels, popcorn, or similar items are provided.

*Electronic cigarette or electronic vaping device* means any electronically, battery or mechanically powered device that uses an atomizer or similar device allowing users to inhale nicotine vapor, or any other vapor, to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars), and any other type of electronic nicotine or vapor delivery system, or any part thereof.

*Enclosed* means closed in on all sides by smoke impermeable walls or windows (exclusive of doorways) that extend from the floor to the ceiling.

*Minor* means any person under eighteen (18) years of age.

*Restaurant* means any place where food is manufactured, packaged, produced, processed, transported, stored, sold, commercially prepared, vended, or otherwise handled. The term includes any such place regardless of the duration of the permit or whether there is a charge for the food. The term includes, but is not limited to, a coffee shop, cafeteria, sandwich shop, private or public school cafeteria, and any other eating establishment that gives or offers food to the public, guests or employees, including catering facilities.

*Smoke or smoking* means the carrying, possessing or holding of any cigar, cigarette, pipe, tobacco product, electronic cigarette or e-cigarette or liquid nicotine of any kind, which is burning or emitting a vapor or the exhalation of any smoke or vapor produced from any cigar, cigarette, pipe, tobacco product, electronic cigarette or e-cigarette.

(Ord. No. 14-P, § 3, 6-19-14)

Sec. 12-21. - Chapter not to excuse noncompliance with other requirements.

Nothing in this chapter excuses noncompliance with any state or federal law, provisions of this Code, any other applicable ordinance of the city, or any rule or regulation adopted pursuant thereto, which prohibits smoking.

(Ord. No. 14-P, § 3, 6-19-14)

Sec. 12-22. - Offenses.

A person commits an offense if he/she:

- (1) Knowingly smokes in the enclosed dining area of a restaurant;
- (2) Fails to have prominently displayed a no-smoking sign as required by this chapter; or

- (3) Is the owner, lessee or other person in charge of a restaurant and knowingly or intentionally permits or fails to make a reasonable effort to prevent commission by another of the offense described in subsection (1) of this section.

(Ord. No. 14-P, § 3, 6-19-14)

Sec. 12-23. - Signs required.

The owner, lessee or other person in charge of a restaurant shall post a clearly visible sign with the words "SMOKING IS PROHIBITED BY CITY ORDINANCE" at each entrance to the restaurant. Additionally, signs displaying the universal symbol for no smoking, or other language that clearly indicates that smoking is prohibited, shall be posted within the restaurant.

(Ord. No. 14-P, § 3, 6-19-14)

Sec. 12-24. - Exempt places.

The provisions of section 12-22 of this chapter shall not apply to a cocktail lounge, tavern or other facility that constitutes a "bar" as defined in section 12-20 of this chapter.

(Ord. No. 14-P, § 3, 6-19-14)

Sec. 12-25. - Penalty.

Any person violating any provision of this section shall be punished as prescribed by section 1-5 of the Code of Ordinances of the city.

(Ord. No. 14-P, § 3, 6-19-14)

Secs. 12-26—12-30. - Reserved.

## ARTICLE III. - SMOKING

## DIVISION 1. - GENERALLY

Sec. 10-41. - Smoking in buildings owned, leased or occupied by city.

- (a) *Definition.* "Smoke" or "smoking" shall mean the possession, carrying, or holding of a lighted pipe, cigar or cigarette or any kind, or any other lighted smoking equipment or device, or the lighting of, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.
- (b) *Prohibition.* Smoking is hereby prohibited in any building owned, leased or occupied by the city, or any department thereof, except in smoking areas designated as provided in this section.
- (c) *Designation of smoking areas.* The city administrator may designate a smoking area in each building subject to this section, and the city administrator is hereby authorized to move, enlarge, eliminate, or reduce the smoking areas, from time to time. Each smoking area designated hereunder shall, to the extent practicable:
  - (1) Be not larger in size than proportionate to the preference of the users normally requesting a smoking area;
  - (2) Be situated so the ventilation minimizes the effect of smoke in adjacent nonsmoking areas, and so that air from the smoking areas is not drawn into or across a nonsmoking area;
  - (3) Contain ash trays, containers, or other facilities for extinguishing smoking materials; and
  - (4) Be set apart or separated from nonsmoking areas.
- (d) *Signs.* The city administrator shall cause signs to be posted at each entrance to each building subject to this section, and at each entrance to each smoking area designated hereunder, in order to advise the public of the areas where smoking is prohibited or allowed under this section.
- (e) *Exceptions.* The prohibition of smoking under this section shall not apply to a portion of a building while such portion is being used for an organized social function approved by the city administrator, and is not being used for working purposes.
- (f) *Violations.*
  - (1) Any violation of this section by a city employee shall be grounds for discipline under the city of personnel policies and procedures, as amended from time to time.
  - (2)

Any person, including, but not limited to, a city employee, who smokes in violation of this section, and who refuses to extinguish his or her smoking material or device upon the request of any city employee, shall be guilty of an offense punishable by a fine of not more than \$200.00.

(Ord. No. 2210, §§ 1—6, 3-20-90)

Sec. 10-42. - Smoking in buildings where owner, tenant or manager of building posts no smoking signs.

- (a) *Definition.* "Smoke" or "smoking" shall mean the possession, carrying, or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, or the lighting of, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.
- (b) *Signs to be posted.* The owner, lessee or manager of a building, portion of a building, or room may post, or cause to be posted, signs prohibiting smoking in such building, portion of a building, or room. In order to be effective under this section, such signs must be posted:
- (1) At each entry of the building, if smoking is to be prohibited in the entire building;
  - (2) At each entry of the portion of the building in which smoking is to be prohibited, if smoking is to be prohibited in only a portion of the building; or
  - (3) At each entry to the room, if smoking is to be prohibited only in the room.
- (c) *Contents of signs.* In order to be effective under this section, the signs shall state substantially the following, in letters at least two inches high;
- "NO SMOKING  
By City Ordinance No. 2215"
- (d) *Offenses.* It shall be an offense to smoke in any building, portion of a building, or room where no-smoking signs have been posted as provided in this section. In any legal proceeding concerning a violation or alleged violation of this section, it shall be presumed that any no-smoking signs in place were posted or caused to be posted by the owner, lessee, or manager of the building, portion of a building or room. An offense under this section shall be punishable by a fine of not more than \$200.00.
- (e) *Exceptions.* This section shall not apply to any building, portion of a building, or room owned, leased or occupied by the city, or any department thereof, which is covered by Ordinance No. 2210 [section 10-41].

(Ord. No. 2215, §§ 1—5, 5-22-90)

DIVISION 2. - SMOKEFREE AIR ACT

This division shall be known as the City of Angleton, Texas, Smokefree Air Act of 2006.

Sec. 10-43. - Findings and intent.

The city council does hereby find that tobacco smoke is a form of air pollution, is a danger to the health and welfare of the citizenry, and is a material public nuisance;

Accordingly, the city council finds and declares that the purposes of this division are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe the smokefree air shall have priority over the desire to smoke.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-44. - Definitions.

The following words and phrases, whenever used in this division, shall be construed as defined in this section:

*Bar* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets. The main criteria to determine if an establishment is a bar or a restaurant is if at least 51 percent of the gross receipts of the establishment come from liquor sales, the establishment is a bar; otherwise, if 51 percent or more of the gross receipts come from the sale of food, then the establishment is a restaurant.

*Billiard or pool hall* shall mean premises used primarily for any of several games played on an oblong table by driving small balls against one another or into pockets with a cue and wherein at least 50 percent of the area accessible to the public, excluding restrooms, hallways, and entries, has to be occupied by pool tables.

*Bingo facility* shall mean premises used primarily for the purpose of conducting games of chance.

*Business* means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

*Employee* means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

*Employer* means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

*Enclosed area* means all space between a floor and ceiling that is enclosed on all sides by solid smoke impermeable walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

*Health care facility* means an office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentist, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

*Place of employment* means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care, or health care facility.

*Private club* means organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The

organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501. A private club in this division is not a private club as defined by the Texas Alcoholic Beverage Code or Beverage Commission.

*Private office* shall mean a space for an officer or employee sequestered or withdrawn from public areas; not intended primarily for general public use or entry.

*Public place* means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, hotel and motel lobbies, laundromats, public transportation facilities, reception areas, restaurant, retail food production and marketing establishments, retail service establishment, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private club is a "public place" when being used for a function to which the general public is invited. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.

*Restaurant* means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant. If at least 51 percent of the establishment's gross receipts comes from the sale of food items, then the establishment is a restaurant.

*Retail tobacco store* means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of their products is merely incidental.

*Shopping mall* means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

*Smoking* means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product in any manner or in any form.

*Sports arena* means sports pavilions, stadiums, gymnasium, health spas, boxing arenas, swimming pools, roller and ice rinks, softball, soccer and baseball fields and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. This includes within the fenced area of any public swimming pool.

*Game rooms* means an establishment that is licensed by the City of Angleton as a "game

room" whose primary business is the operation of eight liners, etc.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-45. - Prohibition of smoking in enclosed public places.

Smoking shall be prohibited in the following enclosed public places within the City of Angleton:

- (1) Aquariums, galleries, libraries, and museums.
- (2) Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including banks, laundromats, hotels, and motels.
- (3) City facilities that are enclosed, including buildings, owned, leased or operated by the City of Angleton.
- (4) Recreational facilities, including the fenced area of public swimming pools.
- (5) Educational facilities, both public and private.
- (6) Elevators.
- (7) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- (8) Hotel and motel lobbies, and hallways.
- (9) Licensed childcare and adult day care facilities.
- (10) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple unit residential facilities.
- (11) Polling places.
- (12) Restaurants.
- (13) Restrooms, lobbies, reception areas, and other common use areas.
- (14) Retail stores.
- (15) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city.
- (16) Shopping malls or strip centers.
- (17) Sports arenas, including enclosed places in outdoor arenas.

(18) City vehicles that are purchased after March 1, 2007.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-46. - Prohibition of smoking in outdoor arenas and stadiums.

Smoking shall be prohibited in the seating areas of all outdoor arenas, stadiums, and amphitheaters. It shall be presumed that 15 feet is a reasonable distance from the bleachers, dugouts, playing field, etc., however, if a complaint is received from any person in the bleachers, dugouts, playing field, etc., that the smoke 15 feet away is bothering them, the appropriate enforcement officer may require the smoker(s) to move a further distance, so as to facilitate the goal of this division, that nonsmokers be allowed to enjoy outdoor sporting events without suffering the nuisance of smokers.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-47. - Reasonable distance.

Smoking is prohibited within the reasonable distance of 15 feet radius from any exterior door and operable windows outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means. Enclosed public places where smoking is prohibited may establish smoking areas outside of the building as long as placement does not violate this division.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-48. - Where smoking not regulated.

Notwithstanding any other provision of this division to the contrary, the following areas shall be exempt from the provisions of section 10-45:

- (1) Private residences, except when used as a licensed childcare, adult day care, or health care facility.
- (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; providing, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous

and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this division. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.

- (3) Retail tobacco stores; providing that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this division.
- (4) Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this division.
- (5) Outdoor areas of places of employment except those covered by the provisions of section 10-45.
- (6) Bars.
- (7) Billiard or pool halls.
- (8) Bingo facilities.
- (9) Private offices.
- (10) Game rooms.
- (11) Bowling alleys.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-49. - Declaration of establishment as nonsmoking.

Notwithstanding any other provisions of this division, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of section 10-50 is posted.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-50. - Posting of signs.

- (a)

"No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted between four and six feet above the ground or floor on the public entry door in every public place and place of employment where smoking is prohibited by this division, by the owner, operator, manager, or other person in control of that place.

- (b) Every public place and place of employment where smoking is prohibited by this division shall have posted at every public entrance a conspicuous sign posted between four and six feet above the ground or floor on the entry door clearly stating that smoking is prohibited.
- (c) All ashtrays shall be removed from any area where smoking is prohibited by this division by the owner, operator, manager, or other person having control of the area. This section does not prohibit the sale of ashtrays by any retail store even if smoking in the store is prohibited.
- (d) The city shall post on its website an acceptable sign that will comply with this provision that may be downloaded and reproduced so as to minimize the cost of signage to the businesses, etc. covered by this division.
- (e) In the event that smoking is prohibited on the entire property, the owner of the property is exempt from the requirement of posting signs on public door and entrances, so long as there is an appropriate sized "No Smoking" sign posted at the public entrance to the property.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

#### Sec. 10-51. - Nonretaliation; nonwaiver of rights.

- (a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant, or customer exercises any rights afforded by this division or reports or attempts to prosecute a violation of this division.
- (b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

#### Sec. 10-52. - Enforcement.

- (a) This division shall be enforced by the chief of police or an authorized designee.
- (b) Notice of the provisions of the division shall be given to all applicants for a business license or certificate of occupancy in the City of Angleton.

- (c) Any citizen who desires to register a complaint under this division may initiate enforcement with the chief of police.
- (d) The building or code enforcement department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this division.
- (e) An owner, manager, operator, or employee of an establishment regulated by this division shall inform persons violating this division of the appropriate provisions thereof.
- (f) Notwithstanding any other provision of this division, an employee or private citizen may bring legal action to enforce this division.
- (g) In addition to the remedies provided by the provisions of this section, the city administrator or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this division may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-53. - Violations and penalties.

- (a) A person who smokes in an area where smoking is prohibited by the provisions of this division shall be guilty of an infraction, punishable by a fine not exceeding \$50.00 on the first offense and not exceeding \$200.00 on subsequent infractions, plus applicable court costs.
- (b) In addition to the fines established by this section, violation of the posting of signs as required by this division by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in a fine not exceeding \$50.00 on the first offense and not exceeding \$200.00 on subsequent infractions, plus applicable court costs.
- (c) Each day on which a violation of this division occurs shall be considered a separate and distinct violation.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-54. - Other applicable laws.

This division shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Sec. 10-55. - Liberal construction.

This division shall be liberally construed so as to further its purposes.

(Ord. No. 2006-O-10C, § 1, 12-19-06)

Secs. 10-56—10-60. - Reserved.

Sec. 93.01. - Smoking prohibited in certain public places.

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

*Administrative area.* The area of a city owned building not generally accessible to the public, including but not limited to individual offices, stockrooms, employee lounges or meeting rooms.

*Public service area.* Any area to which the general public routinely has access for municipal services or which is designated a public service area.

- (B) *Where prohibited.* A person commits an offense if he smokes, or possesses a burning tobacco, weed or other plant product; or if he smokes or possesses an operating electronic smoking device; or if he chews a tobacco, weed or other plant product in any administrative area, conference room, meeting room or public service area of any facility owned, operated or managed by the city. This includes, but is not to be limited to the city hall, city recreation centers, library, police building, service centers and fire stations.

- (C) *City facility designated smoking areas.* The City Manager may designate an area, including but not limited to lobbies, meeting rooms, or waiting rooms, as a smoking area. Smoking and possession of burning tobacco, weed or other plant product, smoking or possession of an operating electronic smoking device or chewing of a tobacco, weed or other plant product is allowed if signs are prominently displayed designating that place as a permitted smoking area.

- (D) *Signs.* It is a defense to prosecution under this section if the building in which the offense occurs does not have prominently displayed at its entrance a reasonably sized notice that smoking is prohibited. In the absence of a sign designating an area of any city facility as a permitted smoking area, it shall be presumed to be a no smoking area.

(Ord. 3609, passed 4-15-2014)

Sec. 82-147. - Smoking on municipal property.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Designated smoking area* means a location not to exceed 100 square feet of area, outside of any enclosed structure on any municipal property, designated in writing by the mayor and posted with appropriate signage.

*Municipal property* means city hall, public works facilities, parks, recreation centers or other kinds of public properties improved with municipal buildings or structures owned by the city.

*Smoke, smokes or smoking* includes:

- (1) Carrying or holding a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment or device;
- (2) The combustion of any cigar, cigarette, tobacco, or similar article, or any other combustible substance in any manner or in any form; or
- (3) Emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.

*Tobacco products* means the use of any type of smokeless tobacco product including, but not limited to, chewing tobacco and snuff.

- (b) *Offense.*

- (1) A person commits an offense if anywhere on municipal property other than in an area clearly marked and validly designated by the mayor as a "Designated Smoking Area" the person fails or refuses to extinguish smoking materials or move beyond municipal boundaries upon request by any person to do so.
- (2) A person commits an offense if anywhere on municipal property other than in an area clearly marked and validly designated by the mayor as a "Designated Smoking Area" the person using a smokeless tobacco product, chewing tobacco or snuff fails or refuses to remove the tobacco materials or move beyond municipal boundaries upon request by any person to do so.
- (3) Any person convicted of violating subsection (b) of this section shall be guilty of a class C misdemeanor.

- (c)

*Signs.* The mayor shall designate and file with the city secretary a designated smoking area for all municipal property. The area shall not exceed 100 square feet. The area shall be marked on site. Signs shall be visibly placed at each public entrance to municipal property to notify persons entering the premises that smoking is prohibited inside the buildings and information therein that there is a designated smoking area on site outside the building. This subsection does not include exits used exclusively as emergency exits.

(d) *Penalty.* Violation of any provision of this section shall be deemed a misdemeanor.

*(Ord. No. 1-01, §§ 1, 2, 3-19-2001)*

## Sec. 22-140. - Designated areas.

- (a) It is the policy of the city to maintain a tobacco-free workplace, except for certain designated areas within which the use of tobacco products is permitted.
- (b) It shall be unlawful for any person to use a tobacco product within the following public buildings:
  - (1) The city hall;
  - (2) The police department;
  - (3) The fire department;
  - (4) The public works service center; and
  - (5) The city community center;

Except that tobacco products may be used within the areas designated by signs as "Tobacco Use Permitted in This Area."

- (c) Further, it shall be unlawful for any person to use a tobacco product outside of the following city-owned or controlled public buildings and while on the city-owned or controlled property upon which such public buildings are located, with the exceptions noted in this section:
  - (1) The city hall;
  - (2) The police department;
  - (3) The fire department;
  - (4) The public works service center; and
  - (5) The city community center;

Except that tobacco products may be used within the areas designated by signs as "Tobacco Use Permitted in This Area."

- (d) Provided, however, persons who are not employees or public officers of the city, including off-duty employees or public officers of the city, are exempted from this prohibition while they are actually on a sidewalk, or the street, or in a parking lot adjoining such public buildings.
- (e) It shall be unlawful for any person to use a tobacco product within any city owned or controlled (leased or rented) vehicle.

(Code 1993, § 50-107; Ord. No. 96-21, § 2.0, 12-16-1996)

## Sec. 22-141. - Notice signs.

Signs shall be placed in and around each building, and on the adjoining city property, to give notice that the use of tobacco products is prohibited, as stated in section 22-140, except that tobacco products may be used within the areas designated by signs as "Tobacco Use Permitted in This Area." Other than the areas designated "Tobacco Use Permitted in This Area," there are no other areas designated as "tobacco use permitted," "smoking areas," or as "smoking permitted." The city manager, or the manager's designee, and the appropriate department head are hereby authorized to designate such permitted use areas.

(Code 1993, § 50-108; Ord. No. 96-21, § 3.0, 12-16-1996)

## ARTICLE V. - SMOKING TOBACCO, ETC.

## Sec. 42-98. - Certain conduct prohibited.

- (a) *In general*. A person commits an offense by possessing a burning tobacco product or smoking tobacco in, or within 15 feet of a pedestrian entrance to, any of the following places:
- (1) Certain city facilities, specifically municipal building, fire station, police building, library, community building, senior services wing, Colonial Park Building including the swimming pool and deck area; or
  - (2) Any other enclosed building space in the city.
- (b) *Exceptions*. The following are exceptions from the prohibitions of this section:
- (1) Possessing or smoking tobacco in private residential building space, to which the public does not have access.
  - (2) Possessing or smoking tobacco in a designated smoking area, as provided for in this article.
  - (3) Possessing or smoking tobacco within premises meeting all of the following criteria:
    - a. The premises are used primarily for sale of alcoholic beverages, for immediate consumption on the premises;
    - b. More than 70 percent of the gross receipts from the premises are derived from such sales;
    - c. The premises are separated from all other building space by walls and other barriers that are impermeable to smoke, except for doors kept closed when not in actual use; and
    - d. The premises have separate ventilation, so that virtually none of the air from the premises reaches any other building space.

(Code 2003, § 12.401)

## Sec. 42-99. - Defenses and related duties.

- (a) *Signs*. It is an affirmative defense to prosecution under section 42-98 that there was no reasonably-sized, "smoking prohibited" sign displayed at the place of the offense. It shall be the duty of the owner and each person in possession or control of a non-city-owned place where smoking is prohibited by this article to cause such signs to be displayed at all times.
- (b)

*Extinguishment facilities* . It shall be an affirmative defense to prosecution under section 42-98 that there was no facility for extinguishing smoking materials at the place of the offense. It shall be the duty of the owner and each person in possession or control of a non-city-owned place where smoking is prohibited by this article to cause the place to be so equipped at all times.

(Code 2003, § 12.402)

Sec. 42-100. - Designated smoking areas.

(a) *Designation* . A designated smoking area must meet all of the following criteria:

- (1) The owner or person in control of the place has designated the area for smoking by filing a standard form with the health official;
- (2) The area is not larger, proportionally, than the number of persons normally requesting a smoking area in that place;
- (3) The area is separated from all other building space by walls and other barriers that are impermeable to smoke, except for doors kept closed when not in actual use;
- (4) The area has separate ventilation, so that virtually none of the air from the area reaches any other building space;
- (5) The area includes only the following building spaces:
  - a. A private office or other space not open to the general public; or
  - b. A portion of a restaurant, not to exceed 40 percent of the number of seats.
- (6) The area is conspicuously marked as a "designated smoking area,"
- (7) All exits from the area are plainly marked to indicate that smoking is prohibited elsewhere in the same building;
- (8) Within the area, and at each exit from the area, there are conspicuous facilities for extinguishing tobacco and preventing smoldering; and
- (9) There is posted in the area a current inspection certificate, as provided in subsection (b).

(b) *Inspection certificates* . The health official shall inspect areas which are designated under this section. If they are found to be in compliance with this section, the health official shall issue a certificate to that effect. The health official may revoke or suspend a certificate for any area that appears to be out of compliance with this section.

(Code 2003, § 12.403)

Sec. 42-101. - Additional applicable laws; fines; state law definitions.

- (a) *Fire code* . Nothing in this article shall be construed to repeal or excuse compliance with smoking prohibitions imposed by chapter 30 of this Code or the fire code.
- (b) *Fine* . An offense under this article is punishable by a fine not to exceed \$200.00.
- (c) *Words and phrases* . Words and phrases used in this article shall have the same meanings as in V.T.C.A., Penal Code § 48.01, unless the context otherwise requires.

(Code 2003, § 12.404)