

Chapter 11
OCCUPATIONAL LICENSES, ALCOHOLIC BEVERAGES,
MISCELLANEOUS PERMITS

TAXICABS
ARTICLE I.
GENERAL PROVISIONS

Sec.11-1 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings herein ascribed to them:

Driver. The term "driver" shall be held to include every person in actual charge of the operation of a taxicab, whether as owner or agent, servant or employee of the owner. The driver must hold a license to drive the vehicle issued by the City pursuant to Article VI of this Chapter.

Owner. The term "owner" shall be construed to mean any person, firm corporation, association, partnership or society who has the control, direction, maintenance and the benefit of the collection of revenue derived from the operation of taxicabs on or over the streets or public ways of the City, whether as owner or otherwise, except as "driver" is herein defined.

Taxicab. The term "taxicab" shall mean a chauffeured motor vehicle used to transport persons for hire that typically operates on irregular routes, irregular schedules, and on a call-and-demand basis. The term "taxicab" shall not apply to motor buses operated within the City pursuant to Texas Railroad Commission and/or Interstate Commerce Commission permits, ambulances, special service vehicles or other vehicles as may be defined by this ordinance. In no event shall pickup trucks be permitted to operate as a taxicab within the City.

Limousine. Any vehicle other than one rented without a driver, a taxicab, touring vehicle, shuttle, or publicly franchised bus, used for the transportation of passengers for hire, not upon a fixed schedule or over a fixed route, the charge for which is determined by the length of time for which the vehicle is engaged, the distance traveled, a fixed fee or any combination of such methods of determining such charge.

Touring Vehicle or Shuttle. Any vehicle other than one rented without a driver, or a taxicab, or a limousine, or a publicly franchised bus, or a private bus used for the transportation of passengers for hire for sightseeing or other purposes, other than for funeral services, the charge for which is determined by a length of time for which the vehicle is engaged, the distance traveled, a fixed fee, or any combination of such methods of determining such charge.

Licensee. A person licensed to operate a taxicab within the City limits after fulfilling the requirements of this chapter.

Feasibility standard. The maximum number of taxicabs determined by the City Council that are needed to operate within the City limits to provide necessary public access and convenience to taxicab service.

Sec.11-2 Taxicab license required except for vehicles discharging passengers only.

It shall be unlawful for any person to drive or to operate or to cause to be driven or operated any taxicab upon or over any street in the City, unless there has been obtained for such vehicle, existing in full force and effect, a license duly issued pursuant to this Chapter, except vehicles discharging passengers only within the City limits are not regulated by this Chapter.

Sec.11-3 Taxicabs operating from points outside the City must be licensed to pick up passengers within City limits.

Taxicabs operating from points outside the City limits must be licensed under this Chapter in order to pick up passengers within the City limits.

Sec.11-4 Current holders of taxi license must conform to requirements.

The holders of licenses to operate taxicabs within the City on the date of the passage of the ordinance adopting the revisions to this chapter must conform to the requirements of the Chapter within ninety (90) days subsequent to the date of passage of such ordinance.

Sec.11-5 Identification; advertising prohibited.

- (A) All licensees must register their vehicle color schemes with the Chief of Police. The color scheme of all taxicabs must be uniform and shall be used exclusively by such licensee.
- (B) Every taxicab shall have painted upon both front side doors and upon the rear thereof, in non-washable paint in color contrast to the color of the taxicab, the name of the owner or the trade name under which the owner operates, together with the taxicab permit number.
 - (1) All the lettering required in this section shall be not less than two and one-half (2 1/2") inches in height, and not less than five-sixteen (5/16") inch stroke.
 - (2) Permanently fixed logos may be substituted for lettering of name of owner or the trade name under which the owner operates.
- (C) No advertising pictures, words, or slogans may be added to any taxicab, limousine, touring vehicle or shuttle.

Sec.11-6 Taxicabs to be not greater than eight years of age.

Taxicabs operating within the City limits must not be greater than eight (8) years of age. The age of a taxicab shall be determined by counting from the first day of the year of the year model designated by the manufacturer of the taxicab. [amended by Ord 09-21, 11/18/09]

Sec.11-7 Current annual state vehicle inspection required.

Each taxicab, limousine, touring vehicle or shuttle must have a current annual vehicle inspection certificate as required by the Texas Department of Public Safety.

Sec.11-8 Taxicabs subject to periodic inspection by Chief of Police or his designee.

Each taxicab shall be subject to periodic inspections by the Chief of Police or his designee. Inspections may include, but not limited to compliance with City ordinance requirements, conditions and appearance of units, drivers, equipment and applicable safety requirement.

Sec.11-9 Operators of taxicabs, renewal of license.

All taxicabs must comply with the requirements of such Chapter upon the renewal of their respective licenses.

Sec.11-10 Operators.

No taxicab for which a license has been issued under this Chapter shall be operated by anyone except the licensee thereof or an employee of the licensee that complies with Article VI of this Chapter 11.

Sec.11-11 Use of most direct route.

Any taxicab driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his destination.

Sec.11-12 Passenger's exclusive right; carrying additional passengers.

When a taxicab is engaged, the passenger shall have the exclusive right to the full and free use of the passenger compartment, and it shall be unlawful for the licensee or driver of any taxicab to solicit to carry additional passengers therein, except with the consent and approval of the first passenger. No taxicab shall carry more than five (5) passengers, except the Chief of Police may certify a taxi cab to carry more than five (5) passengers and up to seven (7) passengers if the vehicle is designed to handle more than five (5) passengers. Any taxi cab that carries more than five (5) passengers must be certified to carry the additional passengers and may not carry more passengers than for which it is certified.

Sec.11-13 Stands on streets and sidewalks prohibited.

The use of any street, alley, sidewalk or public thoroughfare within the City as a taxicab stand, or as a place of business for owners or operators of taxicabs to receive calls for service, or from which to dispatch vehicles or as a place for a taxicab stand, or a place to assemble or habitually park vehicles when awaiting calls for service, is prohibited.

Sec.11-14 Soliciting business.

It shall be unlawful for the licensee or driver of any taxicab, limousine, touring vehicle, shuttle or for any other person, to seek or solicit patrons or passengers for any vehicle by word or by sign, directly or indirectly, while driving any such vehicle over, through, or in any public street or public place of the City, or while the same is parked on any public street or alley of the City.

ARTICLE II.
TAXICAB LICENSES; PROCEDURES AND REQUIREMENTS.

Sec.11-15 Written application to Chief of Police.

All applicants for a license to operate taxicabs within the City limits must submit a written application to the Chief of Police or his designee.

Sec.11-16 Applicants must submit to police department investigation.

All applicants for a license to operate said taxicabs within the City limits must submit to a police department investigation of the applicant's driving record and a check of the applicant's criminal record, if any. Such police report shall accompany the application when the completed application is filed with the Chief of Police or his designee.

Sec.11-17 Applicants must submit certificate of intent to insure following requirements of this Chapter.

All applicants for a license to operate taxicabs within the City limits must submit a certificate from an insurance agent licensed in Texas to write policies as required by this Chapter, of intent to insure each vehicle covered by such license according to the requirements of this Chapter upon approval of the application.

Such policy shall contain an endorsement that cancellation of such policy shall not become effective before fifteen (15) days after notice, in writing, to the City of such cancellation.

Sec.11-18 Contents of Application.

Each application for a license to operate taxicabs within the City limits must contain the following information.

- (1) The application number assigned to such application by the Chief of Police or his designee;
- (2) The date of the application;
- (3) If a prior license has been issued under this Article, the license number, date of issuance, and date of expiration;
- (4) The full name, date of birth, place of birth and SSN# of the applicant;
- (5) The current mailing address of the applicant, other than the commercial address of the vehicle owner;
- (6) The residence telephone number of the applicant, and the business telephone number of the applicant, if other than the telephone number of the vehicle owner;
- (7) The Texas Class C or appropriate driver's license number of the applicant;
- (8) The previous address of the applicant for the last five (5) years and the period of time at such address;
- (9) The age, race, height, weight, color of eyes and color of hair of the applicant;
- (10) The proposed name under which the owner is to operate the vehicle or vehicles;
- (11) The proposed location of the vehicle owner's main office, the location of the private property where the vehicles are to be parked while off duty, the location of any on duty taxi stands, and the location of the dispatch office;
- (12) The proposed hours of operation;
- (13) The proposed number of vehicles;
- (14) The color scheme of the vehicles;
- (15) The assigned number of each vehicle to be operated under the license applied for, the license tag numbers of each such vehicle, and the motor vehicle serial number for each such vehicle;
- (16) The previous experience of the applicant in the operation of taxicabs;
- (17) The previous place of employment for the last five (5) years of the applicant and the term of such employment;
- (18) Three (3) character references other than family members or former employers;
- (19) A list of criminal convictions of the applicant, if any, including traffic offenses;
- (20) A list of any physical infirmities, deformities, or physical or mental handicaps;
- (21) A statement of the reasons by the applicant that approval of the application will benefit and serve the community convenience;

- (22) The notarized signature of the applicant acknowledging that the contents of the application are correct.

Sec.11-19 Application to be accompanied by written permission for parking and taxi stands; Police Chief approval of locations.

The application for taxicab license must be accompanied by written permission of property owners where taxicabs of applicant will customarily park on or off duty, and for all taxi stands of applicant, including copies of all written leases, if any, between such property owners and applicant, and such locations must be approved by the City Chief of Police prior to the granting of the license.

Sec.11-20 License Fee

Prior to issuance of the license, the owner or operator must pay to the City a license fee of \$200.00 per taxicab covered by the license.

Sec.11-21 Multiple vehicles on one license when initially issued; addition of other vehicles requires new license.

Multiple vehicles may be included on one license at the time of initial issue, but additional vehicles may not be added to such license. Additional vehicles require issuance of a new license and compliance with the procedures for application and issuance of same as required by this Chapter.

Sec.11-22 Replacement of licensed vehicle.

In the event a licensed vehicle under this Article is sold, wrecked or destroyed, the owner thereof shall have the right to replace such vehicle with another, written application to the inspector of vehicles and surrender of the license for the vehicle so sold, wrecked or destroyed, a license for the replacement vehicle shall be issued unless a vehicle has been duly substituted under such license and a transfer fee of \$100.00 per substituted vehicle has been paid.

Sec.11-23 License transferable; vehicle transfer fee.

Any license issued pursuant to this Chapter may be transferred to any other person upon the licensee filing an application and meeting all the requirements of this Chapter and paying a transfer fee of \$500. No license may be used for operating any vehicle other than the vehicle for which said license is issued unless it has been duly substituted under such license and a transfer fee of \$50.00 per substituted vehicle has been paid.

Sec.11-24 License renewal procedure; fee.

Taxicab licenses must be renewed every year and the applicant shall comply with all of the requirements of this Chapter for applications for such licenses, except that the vehicles covered by the existing license of an applicant shall not be considered as additional vehicles for purposes of the current feasibility standard. A renewal fee of \$100.00 shall be paid prior to renewal of a license.

Sec.11-25 Revocation for violation of law or failure to comply; procedure.

Should a licensee be arrested or indicted for violating any provision of this Code or any of the laws of the State of Texas, including, but not limited to, laws regulating taxicabs, carriers, or motor vehicles, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee or if licensee should fail to be in compliance with this ordinance or any requirement hereof, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee. If the licensee protests the receipt of notice thereof, the City Council shall, within of ten (10) days after notice to licensee, conduct a hearing and thereupon sustain, modify or reverse the decision of the Chief of Police and notify the licensee of its findings.

Sec.11-26 Taxicab driver's license requirements apply to licensee.

Applicants for a taxicab license under this Chapter must also personally comply with the requirements for and be issued an appropriate driver's license under this Chapter if they drive the vehicle.

ARTICLE III.

PROCEDURE SUBSEQUENT TO FILING OF APPLICATION.

Sec.11-27 Current Feasibility Standard.

The current feasibility standard for taxicabs to be granted licenses pursuant to this Article shall be twenty-four (24).

Sec.11-28 Approval by Chief of Police if ordinance feasibility standard not fulfilled.

If the current feasibility standard as stated in this Article is not fulfilled, the application may be approved by the Chief of Police or his designee upon compliance by the applicant with the requirements of this Chapter. If the current feasibility standard as stated in this Article is fulfilled, the Chief of Police shall deny the application.

Sec.11-29 Chief of Police to notify City Council of granting or denial of license.

Upon the issuance or denial of any license, the Chief of Police shall notify the City Council thereof in writing within five (5) days.

Sec.11-30 Appeal from denial of application by Chief of Police; notice hearing; if no appeal, a decision of Chief of Police final.

If the application is denied by the Chief of Police or his designee, the applicant may appeal to the City Council. Such appeal may be effected by delivering written notice thereof to the City Manager within fourteen (14) days after the denial of the application. Upon receipt of such written notice of appeal, the City Manager shall set a date for hearing thereon before the City Council not less than thirty (30) days from date of receipt of the notice of appeal and notify the applicant in writing thereof. If no notice of appeal is filed by the applicant with the City Manager within fourteen (14) days after denial of the application, such denial shall be final, and no subsequent application may be made for a period of ninety (90) days from such date.

Sec.11-31 Public hearing to be set on application if feasibility standard fulfilled.

If, upon receipt of an application for a taxicab license, the feasibility standard set in this Chapter is filled, then upon the written request of the applicant, the City Manager shall, within five (5) days of receipt of such written request, schedule a public hearing before the City Council on the public necessity and convenience for granting of the application and immediately notify such applicant thereof. The hearing shall be held within thirty (30) days of the City Manager's receipt of the written request of the applicant therefor.

Sec.11-32 Applicant responsible for paying cost of notice of hearing; contents of notice; notice to current license holders.

Upon notice to the applicant for a taxicab license that a public hearing on the public necessity and convenience before the City Council has been scheduled by the City Manager, the City Manager shall cause notice thereof to be published once in a local newspaper, and the publication fee therefor shall be paid by the applicant. Such notice shall state that the applicant, the kind and number of vehicles proposed to be used, the ownership of same, and the specific time and place of the public hearing. Such publication shall constitute notice to all holders of existing taxicab licenses that a public hearing will be held by the City Council at a public place in the City as designated in such notice.

Sec.11-33 Time of publication of notice.

The notice of public hearing must be published in a local newspaper not less than five (5) nor more than fifteen (15) days before the date set for the public hearing.

Sec.11-34 Public Hearing on necessity and convenience to be conducted by City Council; applicant to be present or represented by authorized representative with written authority.

The public hearing on public necessity and convenience shall be conducted by the City Council. The applicant shall appear in person or by an authorized representative who, if the applicant is not present, must submit a written, notarized authorization from the applicant granting such representative authority to represent the applicant at the hearing.

Sec.11-35 Matters to be considered at hearing on public necessity and convenience.

The matters to be considered by the City Council at the hearing on public necessity and convenience are as follows:

- (A) The specific reasons why the feasibility standard should be amended and how the public convenience and necessity would benefit from the proposed service of the applicant. Written statements from interested or qualified persons not present at the hearing may be introduced in support of the application;
- (B) Protests or objections by interested persons shall be considered in the same manner as in subsection (A) hereof;

- (C) Pertinent information from the police department concerning the records of the applicant; information from the building department regarding proposed locations for taxi stands; zoning restrictions, and any other pertinent information from any municipal department or from the Chief of Police or his designee.

Sec.11-36 Criteria for determination of public convenience.

In determining whether the public convenience and necessity require the licensing of taxicabs for which application may be made, the City Council shall take into consideration whether the demands for public convenience and necessity require such proposed or such additional taxicab service within the City; the financial responsibility of the scheme to be used by the applicant; the increased traffic congestion on the streets of the City that may result, whether the safe use of the public streets of the City by the public, both vehicular and pedestrian, will be unduly endangered by the granting of such additional license; and such other relevant facts as the Board may deem advisable or necessary, which may determine the public necessity and convenience.

Sec.11-37 Burden of proof upon applicant; license holders and interested citizens may protest issuance of license.

The burden of proof at the public hearing on public convenience and necessity shall be upon the applicant to establish by clear, cogent, and convincing evidence that the public necessity and convenience require such operation of taxicab or taxicabs for which application has been made. All holders of taxicab licenses and any other citizen shall be entitled to appear at such hearing to protest the granting of the application.

Sec.11-38 City Council to make final decision.

The City Council, upon consideration of the matters brought forth at the public hearing on public convenience and necessity shall, at the next regular meeting of the City Council subsequent to the date of the public hearing on the application for taxicab license, approve or deny the application. If the application is granted, the Board shall amend this Chapter accordingly.

ARTICLE IV.

RATE ZONES, LOG BOOK REQUIREMENTS, PROCEDURE FOR CHANGE.

Sec.11-39 Rate Zones.

The following rate zones shall apply for taxicabs licensed under this Chapter:

- (A) \$4.00 maximum or \$2.00 per person maximum, whichever is greater, on trips anywhere on South Padre Island, such trips not restricted to the City limits.
- (B) \$10.00 maximum for trips from South Padre Island to anywhere in Port Isabel.
- (C) \$15.00 maximum for trips from South Padre Island to anywhere in Laguna Heights
- (D) \$18.00 maximum for trips from South Padre Island to anywhere in Laguna Vista
- (E) \$55.00 maximum from South Padre Island to Harlingen or Harlingen airport.
- (F) \$40.00 maximum to Brownsville airport, plus \$5 for drop off at the Mexico Border.
- (G) \$2.00 per 5 minutes for waiting time.

Sec.11-40 Rates subject to appeal.

The rates set forth in this Article may be appealed, upon the request of a licensee. The appeal process shall proceed in the same manner as set forth in this Chapter for appeal of the denial of a taxicab license, with a public hearing before the City Council.

Sec.11-41 Rate schedules to be permanently affixed in taxicab.

The current rate schedule in effect as per this Article shall be posted in each taxicab in plain view, permanently affixed, illuminated between dusk and dawn, with the identification number of the driver on duty and with the current telephone number of the City department or official designated for taxicab customers to call to report rate discrepancies.

Sec.11-42 Cab logbook required, subject to City audit.

Each taxicab must maintain a current logbook which shall be kept in the taxicab at all times showing the dates of operation, the rates charged to each destination, and the driver name and number for each period of operation. The logbook may be audited at any time by an appropriate City official to verify compliance with the rate zones.

**ARTICLE V.
INSURANCE REQUIREMENTS.**

Sec.11-43 Liability insurance required of all taxicabs; amounts and coverage's.

Prior to the issuance of a license pursuant to this Chapter or before any renewal of such license, the owner or operator applying for such license shall file with the Chief of Police, and thereafter keep in full force and effect, a liability policy in a form approved by the State Board of Insurance Commissioners, issued by an insurance company duly authorized to transact liability insurance in the State of Texas, covering bodily injuries and injury to or destruction of property resulting from the operation of the taxicab or taxicabs of such owner or operator, and the amount of coverage of such liability policy shall be not less than the following amounts and coverage's:

- (A) The minimum amount of liability insurance of any taxicab licensed under this Chapter shall never be less than the amount established by the statutes of the State of Texas under the Texas Safety Responsibility Act or amendment thereto.
- (B) The insurance coverage hereinabove set forth shall not be exhaustible by first recovery but subject to successive recoveries for as long as the insurance is in effect.
- (C) The public liability insurance required by this Article shall be for the protection of the passengers of the insured taxicab and for the public, but shall not cover personal injuries sustained by the servants, agents or employees of the person filing the insurance.

Sec.11-44 Certificate of insurance premium paid for one year required prior to issuance of license.

Prior to issuance of a license under this Chapter, the licensee shall provide the Chief of Police with an insurance company binder showing insurance premiums paid for the insurance required by this Chapter for a full twelve (12) month period in which the taxicabs covered by the licensee will be operating within the City limits.

Sec.11-45 Chief of Police to be notified upon cancellation or lapse of insurance; vehicles not to operate without insurance.

In the event the liability insurance of a licensee as required by this Chapter lapses or is canceled, the Chief of Police shall be notified (15) fifteen days prior to cancellation by the licensee and it shall be unlawful for any taxicab to operate within the City limits without the insurance as required by this Chapter in full force and effect.

**ARTICLE VI.
DRIVER REQUIREMENTS, LICENSING.**

Sec.11-46 Drivers of taxicabs must have Class C or appropriate driver's license.

Any person driving a taxicab covered by this Chapter within the City limits must have a current valid Texas Class C or appropriate driver's license and a license issued by the City pursuant to this Article to operate said vehicle.

Sec.11-47 Application for taxicab driver's license; procedure.

The application for a City taxicab driver's license must contain the following information:

- (A) The name, date of birth, social security number, place of birth, home and business address (no P.O. Box numbers), race, height, weight, color of eyes and hair, Employer's name and address, list of all arrest and convictions including traffic offenses, list of all vehicle accidents applicant was involved in during the past five years, list all states that have ever issued a drivers license to applicant, home and business telephone numbers, and physical description of the applicant;
- (B) The Texas Class C or appropriate driver's license number of the applicant;
- (C) The thumb print conviction record of the applicant;
- (D) Three (3) character references excluding members of the applicant's family or former employers;
- (E) Any other pertinent information as required by the City Chief of Police;
- (F) Two (2) recent photographs of the applicant, one for use upon the applicant's identification card and one to be retained in the police department file;
- (G) A license fee per Sec.2-75 must accompany the application.

Sec.11-48 Taxicab driver's license to be issued for a one year period. Display of license required.

The taxicab driver's license issued pursuant to this Chapter shall be issued for a period of one year, after which it must be renewed by the City. If any information required by Sec 11-47 changes during the license period the license holder must report the same to the City within ten (10) days and any change can be cause for license revocation. The license must be displayed at all times when vehicle is in operation so that passenger may read the face of the license while traveling.

Sec.11-49 Renewal of Taxicab license; procedure.

Within thirty (30) days prior to the expiration date of the taxicab license, the holder thereof must submit an application to the Chief of Police or his designee for the issuance of a new license, and such application must conform to the requirements of this Article.

Sec.11-50 Denial of taxicab license; appeal procedure.

The Chief of Police may deny an application for a license to drive a taxicab license on the basis of failure of the applicant to fulfill the requirements of this Chapter or the City police department has determined that the applicant has been convicted of a crime or that the driving record of the applicant is unsatisfactory. Upon receipt of notice of the denial of such application, the applicant may request a hearing before the City Council, and the City Manager, upon the receipt of written notice from the applicant, shall set such hearing for the next regular meeting of the Board.

Sec.11-50.1 Revocation of drivers license; appeal procedure.

Should the holder of a drivers license issued by the City pursuant to this Chapter of Code of Ordinances be arrested or indicted for violating any provision of this Code or any of the laws of the State of Texas, including, but not limited to, laws regulating taxicabs, carriers, or motor vehicles, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee or if licensee should fail to be in compliance with this ordinance or any requirement hereof, the Chief of Police shall revoke said license upon the expiration of five (5) days after notice of intent to revoke is given licensee. If the licensee protests with in five (5) days after the receipt of notice thereof, the City Council shall, within of ten (10) days after receipt of notice of protest from licensee, conduct a hearing and thereupon sustain, modify or reverse the decision of the Chief of Police.

**ARTICLE VII
NON-MOTORIZED VEHICLES FOR HIRE.**

Sec.11-51 Non-motorized vehicles to be licensed; requirements.

Any owner or operator of a non-motorized vehicle, including horse-drawn carriage, for hire which is operated by a driver shall obtain a license therefor from the City in the same manner and meeting the same requirements, including but not limited to the maintenance of liability insurance, as a taxicab license, although no feasibility standard shall apply. The drivers thereof must have only a current valid Class C Texas driver's license.

Sec.11-52 Special Regulations for Horse-Drawn Carriages.

Any permit issued pursuant to this Chapter for the use of horse-drawn carriages as a means of conveyance shall comply with all regulations promulgated by the City Manager or his designated representative, relating to the following:

- (a) Limitations on the specific streets which may be utilized by horse-drawn carriages and the hours of operations allowed.
- (b) Safety requirements pertaining to reflectors, warning devices and other safety equipment used on the vehicles, and the types and design of wheels and horse shoes which may be utilized.
- (c) Sanitation procedures to insure the cleanliness of streets and public ways and the proper disposal of waste.
- (d) Health regulations safeguarding the care, feeding and watering of the horses or other draft animals employed by the operator.
- (e) Additional insurance requirements supplementing the minimum limits for automobile and general liability insurance required for limousine and sightseeing operations generally.

- (f) Any other rules, regulations or procedures which the City Manager, or his designated representative, deems necessary to maintain adequate safeguards for the operation of horse-drawn carriages on the public streets not inconsistent with this section.
- (g) The operator of a horse-drawn carriage shall file with the Office of the City Manager a Schedule of Fees that will be charged for the hiring of a horse-drawn carriage and the operator shall abide by such Schedule of Fees. The operator may change the Schedule of Fees by filing a new Schedule of Fees with the City Manager's Office.

Sec.11-53 Horse-Drawn Carriages. No Violation of Section 3-3.

Any operator of a horse-drawn carriage holding a license from the City issued pursuant to this Chapter shall be deemed not to be a violation of Section 3-3 of this Code of Ordinances.

Secs. 11-54 through 11-74 Reserved.

[Ordinance No. 137, 4-19-89, enacted Articles I-VII, and re-numbered Article VIII (Article VIII was re-numbered by Editor of this Code)]

ARTICLE VIII.

ALCOHOLIC BEVERAGES, MISCELLANEOUS PERMITS

Sec.11-75 Fee for alcoholic beverage permit.

Any person or corporation seeking a permit from the Texas Alcoholic Beverage Commission shall pay to the City a fee equal to one-half of the State fee for said permit, except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining, buffet, or club cars, and Class B Winery Permits, and except as to Mixed Beverage Permits during the first, second and third years of their existence. (Ord. No. 15, 12-5-73)

Sec.11-76 Business hours for alcoholic beverage permit holders.

All holders of appropriate licenses and permits as issued by the Texas Alcoholic Beverage Commission may maintain their businesses open during the hours prescribed by State law for counties having a population of 300,00 or more, and it is specifically provided that late-hour permits are permissible within the corporate limits of the City. (Ord. No. 15, 12-5-73)

Sec.11-77 Official forms--City Secretary to certify and execute.

The City Secretary is authorized to certify and execute any forms required by the Texas Alcoholic Beverage Commission for the purposes of certifying that the sale of alcoholic beverages are allowed within the corporate limits of the City. (Ord. No. 15, 12-5-73)

Sec. 11-78 Sales Near School, Church, or Hospital Prohibited

- (A) Locational Requirements: The sale of Alcohol is hereby prohibited by any dealer whose place of business is located within:
 - (1) Three Hundred (300) feet of a church, public school, or public hospital; or
 - (2) One Thousand (1,000) feet of a public school, if the City Council receives a request from the Board of Trustees of the school district under Section 38.007 of the Texas Education Code.
- (B) Measurements, How Calculated: The measurement of the place of business where alcohol is sold and a church or public hospital shall be along the property lines of the street fronts, and from front door to front door, and in a direct line across intersections. The measurement of the distance between the place of business where alcohol is sold and a public school shall be in direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.
- (C) Exemptions: Subsection (A)(2) does not apply to the holder of:

- (1) A retail on-premises consumption permit or license if less than fifty (50) percent of the gross receipts for the premises is from the sale or service of alcoholic beverages.
- (2) A retail off-premises consumption permit or license if less than fifty (50) percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages.
- (3) A wholesaler's, distributor's, brewer's, distiller's, and rectifier's winery, wine bottler's, or manufacturer's permit or license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102 of the Texas Alcoholic Beverage Code.

Sec.11-79 Sandblasting prohibited without permit.

All outside sandblasting within the City of any type or nature is hereby prohibited, unless a permit therefor is obtained from the City. (Ord. No. 103, 11-17-82)

Sec.11-80 Building Department to issue sandblasting permit.

The Building Department of the City, by and through its Building Inspector, may issue a special permit to allow sandblasting when the applicant has demonstrated that he/it will conduct such sandblasting in a manner as not to create any airborne pollutants and with such any and other additional safeguards as may be imposed by the Building Inspector; and any sandblasting conducted thereafter must be done in strict compliance with said permit, and said permit may be terminated at any time that it is determined that the sandblasting being conducted by the applicant is in fact injurious or hazardous to the surrounding properties or people. (Ord. No. 103, 11-17-82) **Reserved Sec 11-81 to Sec 11-99**

**ARTICLE IX
CUSTOM GARMENT FABRICATION**

Sec.11-100 Definitions.

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Custom Garment Fabrication Business: A business that sells custom fabricated garments to the general public at retail.

Garment: Any item of wearing apparel.

Custom Garment Fabrication Service: The act of altering a garment on site at a retail business by the application of custom garment material through a heat transfer, screen painting or other similar process.

Custom Garment Fabrication Material: Adornments, including but not limited to, lettering, designs, decals, appliques, artwork or similar artistic or commercial designs.

Custom Fabricated Garment: Any garment that is altered, at the request of a customer, by custom garment fabrication service, whether or not such garment is provided by the custom garment fabrication business or the customer.

Base Retail Price: The price for which a garment may be purchased without custom garment fabrication service.

Full Purchase Price: The maximum price for which a garment may be sold, which shall be inclusive of all charges, services, taxes (if any), and fees, including but not limited to, any charge for custom garment fabrication service or custom garment fabrication materials.

Point of Sale: The location in a custom garment fabrication store at which the sale of custom fabricated garments is consummated by payment of the purchase price therefor.

Sec.11-101 Application for License

- (A) Any person, firm or corporation desiring to engage in the custom garment fabrication business shall apply to the City Secretary of the City of South Padre Island, in writing, on

forms supplied by the City of South Padre Island for said purpose, which form shall be duly verified by the applicant. The application shall set forth:

- (1) Name and address of applicant.
 - (2) Local and permanent addresses and telephone numbers of applicant.
 - (3) Name, local address and telephone number or manager of business if different from applicant.
 - (4) If applicant is a corporation, the name and address of its registered agent.
 - (5) The name and address of a person residing in, or employed in the City of South Padre Island designated by applicant to accept service of process of any complaint arising out of an alleged violation of the provisions of this Ordinance. Said designee may be applicant.
 - (6) Copy of the Texas State Sales Tax Certificate.
 - (7) Federal Employer Identification Number, if applicant is a corporation, partnership or firm; or Social Security Number if a proprietorship.
 - (8) A certification that applicant is a citizen of the United States or, if not, is the holder of documentation authorizing the alien to be employed in the United States.
 - (9) If applicant is a partnership, firm or corporation, all information required by the application shall apply not only to the partnership, firm or corporation, but also to each officer, director or holder of ten percent (10%) of the issued stock (if a corporation), and to all members of a partnership or firm.
- (B) Each custom garment fabrication business license issued by the City Secretary of the City of South Padre Island shall contain a registration number and no such license shall be transferable.
- (C) A fee of One Hundred Dollars (\$100.00) shall be charged by the City of South Padre Island for the issuance of such license. Each license shall constitute a separate fee.

Sec.11-102 Expiration and Renewal.

Licenses issued pursuant to the provision of this Ordinance shall be good only for the period of issuance and shall be effective only from the date of issue each year. No license will be issued for a subsequent year without again complying with the provisions of this Ordinance.

Sec.11-103 Regulations.

- (A) It shall be unlawful to engage in the custom garment fabrication business in the City of South Padre Island without first obtaining a license therefor pursuant to the provisions of this Ordinance.
- (B) No person, partnership, firm or corporation engaged in the custom garment fabrication business, whether as an owner or an employee therein, shall sell any garment unless:
- (1) The garment is marked with its base retail price.
 - (2) The price of the garment is clearly marked in ink or "marker". No prices shall be marked in pencil. The marked price must reflect the price of the garment as it then exists, whether or not the garment may have been previously modified by custom garment fabrication services.
- (C) No salesperson may charge, nor may any person, partnership, firm or corporation engaged in the custom garment fabrication business authorize a salesperson, to charge the purchaser of a custom fabricated garment any amount in excess of the amount shown on posted notice of prices described in (G) below.
- (D) Every person, partnership, firm or corporation engaged in the custom garment fabrication business shall provide each buyer of a custom fabricated garment with a cash register or other receipt for any purchases of custom fabricated garments, showing the price of all custom fabricated garments purchased and the amount of sales tax, if any, charged in conjunction therewith.
- (E) Every person, partnership, firm or corporation engaged in the custom garment fabrication business must have a copy of this Ordinance at each point of sale in the store and make it available to any person to read, upon reasonable request.

- (F) Each person, partnership, firm or corporation engaged in the custom garment fabrication business must post at each point of sale a notice, to be provided by the City of South Padre Island, which sets forth the following information:
- (1) This business has been licensed by the City of South Padre Island to sell custom fabricated garments.
 - (2) The license number is _____.
 - (3) Each customer must also receive a cash register or other receipt for any purchase of a custom fabricated garment from this store when you pay for the custom fabricated garment.
 - (4) A copy of the City of South Padre Island Ordinance regulating the sale of custom fabricated garments is available to customers to read at any cash register or other point of sale in this store.
 - (5) The failure of a merchant to comply with any of these provisions should be reported to the City of South Padre Island Police Department located at 4501 Padre Boulevard, South Padre Island, Texas.
- (G) Every owner of a custom garment fabrication business shall post in plain view of the public a clearly lettered sign, at least 8 1/2 inches by 11 inches (8 1/2" X 11"), with lettering at least two inches (2") high, at each point of sale in its store, which sign itemizes the unit price for each type of custom garment fabrication material that can be purchased in the store, whether separately or as part of the preparation of a custom fabricated garment, as well as the price of each type of custom garment fabrication service which is available in the store, whether it is obtained separately or as part of the preparation of a custom fabricated garment. All items for which Texas State Sales Tax is charged shall be designated by a clearly visible identifying mark at least one-half inch (1/2") high adjacent to the price for such item referring to a legend at the bottom of the posting, that reads in one-inch (1") high letters, the phrase "TAXABLE ITEM".

Sec.11-104. Suspension or Revocation of License.

In addition to being subject to the penalties provided by this Ordinance, any license issued under this Ordinance may be revoked or suspended by the City Council of the City of South Padre Island for any mis-statement in any application or for any violation of this Ordinance. No license shall be revoked or suspended until the licensee has been afforded a hearing before the City Council of the City of South Padre Island. Notice of the filing of a complaint which seeks to suspend or revoke any license issued under this Ordinance shall be served on the person designated to receive service in Section 11-101(A)(5) of this Ordinance, which notice will establish a date for a hearing to be held not more than ten (10) days from the date of such notice, at which time the licensee shall have the right to be represented by counsel, call witnesses, cross-examine witnesses produced in support of the complaint, as well as such other rights necessary in order to insure due process. Should any license be revoked or suspended, no part of the license fee shall be returned.

Sec.11-105. Recordkeeping and Access.

All records or sales slips required by this Article shall be maintained by the Licensee for at least Twelve (12) months from the date of the creation of such record or receipt. Any official from the City of South Padre Island has the right of access to these records and receipts and the same shall be made available to said official on demand during normal business hours

[Ord. No. 132 July 6, 1988, enacted Article IX (Custom Garment Fabrication) of Chapter 11 and the sections were re-numbered by the Code Editor; Ord No. 00-05, Mar 1, 2000 amended Article IX] **Sec.11-106 to 11-109 reserved.**

Article X

Amusement Redemption Machine Establishments.

Sec.11-110 DEFINITIONS

For the purpose of this Article X the following words and terms as used herein are defined to mean the following:

1. Amusement Redemption Machine means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

2. Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment-- Any business location that has more than three (3) Amusement Redemption Machines is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an Amusement Redemption Machine Establishment and subject to this Article X and all the rules and regulations of the City.

3. Premises means any premise requiring a permit under the terms of this section and shall include the grounds as well as all the buildings and vehicles as well as any adjacent premises either directly or indirectly under the control of the Permittee.

4. Permit means a permit to operate an Amusement Redemption Machine Establishment.

5. Permittee means a person in whose name a permit to operate a Amusement Redemption Machine Premise has been issued.

6. Person means an individual, partnership, corporation, association or other legal entity.

7. Private Club means an association of persons for the promotion of some common object which operates not for a profit a place for the accommodation of its members and guests only.

8. Public facility means any property owned and/or operated by the City of South Padre Island or any governmental entity.

Sec.11-111 PERMIT REQUIRED

1. A person commits an offense if they operate a Amusement Redemption Machine Establishment without a permit.

2. An application for a permit must be made on a form provided by the City. The applicant must be qualified according to the provisions of this section.

3. A person who wishes to operate Amusement Redemption Machine Establishment must sign the application for a permit as applicant. If a person who wishes to operate a Amusement Redemption Machine Establishment is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a permit as an applicant. Each applicant will be considered a permittee.

4. It is a defense to prosecution under this section if the alleged activity is conducted at:

- a. a private residence from which the general public is excluded;
- b. a place owned by the federal, state or local government;
- c. a public or private elementary school, secondary school, college or university; or
- d. a place owned by a religious organization.

Sec.11-112 LOCATION OF ESTABLISHMENTS

A person commits an offense if he operates or causes to be operated a Amusement Redemption Machine Establishment within 300 feet of: 1. a church; 2. school; or 3. hospital.

Sec.11-113 ISSUANCE OF PERMIT

The City Secretary shall approve issuance of a permit to an applicant within 30 days after receipt of an application unless the Chief of Police finds one or more of the following to be true:

1. An applicant or an employee is under 18 years of age;
2. An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon real and/or personal property;
3. An applicant, an applicant's spouse or an employee has been convicted of a violation of a provision of this Article within a period of two years preceding the application;
4. Any fee required by this section has not been paid;
5. An applicant, an applicant's spouse or an employee has been convicted of a felony as defined in section 1.07 of the Texas Penal Code within a period of five years preceding the application;

6. An applicant, an applicant's spouse or an employee has been convicted any of the gambling offenses as described in Chapter 47 of the Texas Penal Code within a period of five years preceding the application.

7. An applicant, an applicant's spouse or an employee has been convicted any of the following offenses as described in Chapter 21 of the Texas Penal Code within a period of five years preceding the application:

a. public lewdness; b. indecent exposure; or c. indecency with a child.

8. The fact that a conviction is being appealed has no effect on the disqualification of the applicant, the applicant's spouse or an employee under this section.

9. The City Secretary, upon approving issuance of a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment permit shall send the applicant, by certified mail, return receipt requested, written notice of that action and state where the applicant must pay the permit fee and obtain the permit. The City Secretary's approval of the issuance of a permit does not authorize the applicant to operate a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment until the applicant has paid all fees required by this Article X and obtained possession of the permit.

Sec.11-114 FEES

1. Amusement Redemption Machine Premise or Establishment License fee as follows:

- (i) 3 to 5 machines on premise a \$1,000.00 fee;
- (ii) 6 to 10 machines on premise a \$2,500.00 fee;
- (iii) 10 or more machines on premise a \$5,000.00 fee.

2. In addition to the fees required by this section, an applicant shall, at the time of making application, pay a nonrefundable application fee of \$500.00 for the City to conduct an inspection of the proposed premises together with the surrounding area to insure compliance with all applicable health and safety codes and ordinances and to insure compliance with the locational restrictions set forth Sec.11-112 of this Article.

Sec.11-115 NO ALCOHOL ON PREMISES

No Amusement Redemption Machine Premise or Establishment, as that term is herein defined, shall serve alcoholic beverages of any nature, nor shall alcoholic beverages be consumed upon the premises.

Sec.11-116 INSPECTION

1. Representatives of the police, fire, code enforcement and any other appropriate governmental departments may inspect the Amusement Redemption Machine premises for the purpose of insuring compliance with the law, at any time it is open for business or occupied.

2. A person who operates a Amusement Redemption Machine establishment or a person designated as the Amusement Redemption Machine establishment supervisor commits an offense if he refuses to permit a lawful inspection of the premises of a Amusement Redemption Machine establishment by a representative of the police department, the fire department, code enforcement, building inspections or planning department at any time it is open for business or occupied.

3. The front door of the Amusement Redemption Machine premises may not be locked or access restricted when the premise is open for business or has occupants.

Sec.11-117 Amusement Redemption Machine Supervisor

1. Upon the approval of a permit by the City Secretary, a person who operates a Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment must designate a person as a Amusement Redemption Machine establishment supervisor. The designation must include the individual's full name, address, telephone number, drivers license number, and a photo ID.

2. If, at any time during the period of the permit, a person who operates a Amusement Redemption Machine establishment wishes to designate a different individual as the Amusement Redemption Machine establishment supervisor, it will be necessary for the designation procedure described in this section to be followed.

3. A person designated as the Amusement Redemption Machine supervisor must remain on the premises of the Amusement Redemption Machine establishment all times during operating hours to insure that all activities are conducted in a lawful manner.

Sec.11-118. PERSONS UNDER 18 PROHIBITED; SIGN TO BE DISPLAYED

1. No person under the age of 18 years shall be permitted on the premises of any Amusement Redemption Machine establishment unless accompanied by a parent or adult guardian.

2. Any person holding a Amusement Redemption Machine permit shall prominently display on the premises a sign reading as follows:

“PLAY BY MINORS UNDER EIGHTEEN YEARS OF AGE NOT ALLOWED
UNLESS ACCOMPANIED BY PARENT OR ADULT GUARDIAN”.

3. A person who operates Amusement Redemption Machine establishment or a person designated as a Amusement Redemption Machine establishment supervisor commits an offense if he knowingly permits a person under 18 years of age to enter or remain on the premises unless accompanied by a parent or adult guardian.

Sec.11-119 EXPIRATION OF ESTABLISHMENT PERMIT

1. A permit for a Amusement Redemption Machine establishment shall expires one year from the date of issuance. A permit may be renewed only by making application as provided in Sec.11-111 and Sec.11-112. Application for renewal should be made at least 30 days before the expiration date. When made less than 30 days before the expiration date, the expiration of the permit will not be affected by the pendency of the application.

2. When the City Secretary denies renewal of a permit, the applicant may not be issued a Amusement Redemption Machine establishment permit for one year from the date the denial becomes final. If, subsequent to denial, the City Secretary finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the denial became final.

Sec.11-120 RESERVED

Sec.11-121 REVOCATION

1. The City Secretary and/or the Chief of Police shall, subject to the provisions of Sec.11-122, revoke a permit if a permittee or an employee of a permittee has:

- a. violated any provision of this Article X;
- b. knowingly permitted gambling by any person on the premises.

2. The City Secretary and or the Chief of Police shall, subject to the provisions of Sec.11-122, revoke a permit if the City Secretary and/or the Chief of Police determines that one or more of the following is true:

- a. A permittee has given false or misleading information in the material submitted to the Chief of Police and/or City Secretary during the application process;
- b. A permittee or employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- c. a permittee or employee has knowingly allowed prostitution on the premises;
- d. a permittee is convicted of or is under indictment for any felony offense or any misdemeanor offense listed in Sec.11-113 of this Article.

3. The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

4. When the City Secretary and/or the Chief of Police revokes a permit, the revocation will continue for one year after the revocation becomes final. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the revocation became final.

Sec.11-122 APPEALS

If the City Secretary denies the issuance or renewal of a permit or suspends or revokes a permit, the City Secretary shall send to the applicant or permittee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. The aggrieved party may appeal the decision of the City Secretary and/or the Chief of Police to the City Council. The filing of an appeal and the posting of a cash bond in the amount of \$500 shall stay the action of the City Secretary and/or the Chief of Police in suspending or revoking a permit until the City Council makes a final decision. The City Council shall hear the appeal within 60 days of filing. If, after a hearing, the City Council denies the appeal or in the event the aggrieved party fails to fully prosecute the requested appeal to a conclusion, the \$500 cash bond previously posted shall be forfeited as costs and remainder of any suspension or revocation shall be fully implemented. The decision of the City Council shall be final.

Sec.11-123 TRANSFER OR ASSIGNMENT OF PERMIT

A permittee shall not transfer or assign a permit to another nor shall a permittee operate a Amusement Redemption Machine establishment under the authority of a permit at any place other than the address designated in the application.

Sec.11-124 EXISTING AMUSEMENT REDEMPTION MACHINE PREMISE

Any existing business or premise that meets the definition of Amusement Redemption Machine Premise or establishment must comply with all the provisions of this Article X within sixty (60) days of the enactment of this Ordinance and Article X including, but not limited to, obtaining a permit. Failure to obtain a permit within sixty (60) days and continue operations will be a violation of this Article.

Sec.11-125 CIVIL ENFORCEMENT

In addition to the penalties provided by Section 21-1 of the Code of Ordinances It is hereby declared that the City will be irreparably damaged by the violation of this Article X by any person or entity; the City is, therefore, hereby empowered to bring suit to enjoin the violation of this Article X and collect a civil penalty in the sum not to exceed Two Thousand Dollars (\$2,000) for each day that this Article X is violated. Suit to enjoin the violation of this Article X and collect the civil penalty hereby imposed may be brought in any court of competent jurisdiction. [Ord 09-11]

**Article XI
WRECKERS**

Sec. 11-200 DEFINITIONS

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

Auction: means the sale of motor vehicles not claimed by the lawful owners and reported to the South Padre Island Police Department as abandoned.

Abandoned vehicle: is defined as set forth in Chapter 683 of the Texas Transportation Code, as may be amended.

Chief of police: means the South Padre Island Police Chief.

City limits: The city of South Padre Island's city limits

Designated person: means a person designated by the chief of police.

Drop fee: means the price to be charged in lieu of a towing fee where, after a wrecker has been dispatched to, or is at the scene of a tow, and has physically attached or connected the vehicle to the auto wrecker, and the vehicle has not been towed from the property, and when the vehicle owner requests its release.

Inspections: means the inspection of insurance certificates and permits by officers of the South Padre Island Police Department for wreckers who conduct services within the city limits of South Padre Island. The designated officer or person in charge of overseeing the wrecker rotation list can also, upon request check wrecker bill invoices at the vehicle storage facility.

Motor vehicle or vehicle: means a vehicle for which the issuance of a certificate of title is required under Chapter 501, of the Texas Transportation Code; or any other device designed to be self-propelled or transported on a public highway.

Owner of a vehicle: means a person named as in the certificate of title issued for the vehicle under Chapter 501, of the Texas Transportation Code, in whose name the vehicle is registered under Chapter 502, of the Texas Transportation Code, or a member of the person's immediate family, or who holds the vehicle through a lease agreement.

Twenty-four hour wrecker service: means that in order to be categorized as a 24-hour wrecker service, the permit holder must have two telephone lines or a telephone capable of receiving two lines listed with the city which can be answered 24 hours, seven days a week. The wrecker company must be able to immediately advise the police department of the availability of a wrecker. The permit holder must have two-way communications between the wreckers and the wrecker service office.

Vehicle storage facility: means a garage, parking lot, or any facility owned or operated by a person other than a governmental entity for storing or parking ten or more vehicles, a year, as set forth in the Texas Occupation Code § 2303.002(8), the Vehicle Storage Facility Act, or the successor statute/code provisions.

Wrecker rotation list: means the rotation list of wrecker companies licensed and approved by SPI-PD police chief to readily respond to emergency calls for service.

Private property tow: is when an owner/manager of a privately owned property contracts with an approved wrecker company to tow improperly parked vehicles from their premises.

Consent tow: means an individual owner/operator of a vehicle in need of towing, calls a wrecker service of their choice, to conduct the tow via their request.

Wrecker: means any motor vehicle used for the purpose of towing or removing disabled, abandoned, or wrecked vehicles.

Wrecker business: means the business of towing or removing vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such vehicle, when the towing is done to remove a wrecked or disabled vehicle from the scene of a collision at the instance or request of the owner thereof, or the police department or fire department, or to remove a vehicle from an unlawfully parked position at the instance or request of the police department or fire department.

Wrecker company: an individual, corporation, partnership, or other association engaged in the wrecker business of towing vehicles for compensation or with the expectation of compensation for the towing or storage of the vehicles and includes the owner, operator, employee, or agent of a wrecker company.

Sec. 11-201 PURPOSE

This ordinance is designed to set guidelines for police department-initiated calls, citizens' direct request, and private property (contract) calls for tow service within the city limits of South Padre Island. All emergency wrecker services listed on our police department's rotation list require regulations in order to avoid competitive speeding, unnecessary delay, and confusion by wrecker services. Such regulations are necessary in order to avoid traffic hazards and to minimize the danger of injury to persons and damage to property. Additional guidelines concerning citizen's direct request and private property tows are created to reassure fair and equitable treatment to our local tow companies, as well as our citizens and visitors alike.

Sec. 11-202 REQUIRED APPLICATION

Each tow company desiring to be placed on the city of South Padre Island's wrecker rotation, and/or to conduct private property contract towing, shall make application, in writing, on a form provided for that purpose, to the chief of police. Each application shall contain the name, address and telephone number of the wrecker company. The application shall also contain a list of all wreckers to be used by the company, to include type of unit, year model, vehicle identification number and current tow truck registration. Copies of current insurance policies for all wreckers listed and the storage facility shall also be provided. A current copy of the storage facility license shall be provided with the application. Photocopies of all driver's license for all drivers of the company, and a statement that the applicant does or does not desire to appear on the wrecker rotation list shall accompany the application. Every application when filed shall be sworn to by the applicant. Any application with false information or incomplete documentation will not be processed.

Sec. 11-203. PERMIT ISSUANCE BY CHIEF OF POLICE; SAFETY, INSURANCE AND OTHER REQUIREMENTS

Subject to the maximum numerical limits on the number of tow companies which may be placed on the wrecker rotation and/or approved to conduct private property towing, as set out in sec. 11-216 of this Article, the chief of police, or his designee, shall issue a permit to all wrecker companies making appropriate application and desiring to be placed on the city's wrecker rotation list and/or conducting private property towing, provided however that any such applicants selected must comply with the provisions of this Article. No certificate authorizing wrecker companies, and/or their drivers, to conduct business within the city limits shall be issued unless the following requirements are met:

(1) Every wrecker proposed to be used by the applicant shall comply with the following minimum safety requirements:

a. Each wrecker shall be not less than three-quarters ton in size and shall be equipped with booster brakes.

b. Each wrecker shall be equipped with a power winch line and boom, with a factory-rated lifted capacity of not less than 5,000 pounds single line capacity.

c. Each wrecker shall carry as standard equipment: tow bars or roller bars, safety chains, a fire extinguisher, wrecking bars, an axe and oil absorbent material. The applicant shall have dollies if needed, but they are not required equipment for each wrecker.

d. Each wrecker proposed to be used shall comply with the requirements of sec. 11-204 of this Article.

e. Each wrecker so qualifying shall be issued safety and insurance compliance inspection certificates.

(2) Insurance Requirements.

a. Each wrecker company shall produce and keep in full force and effect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the State of Texas and in the standard form approved by the board of insurance commissioners of the state, with the insured provision of such policy including the city as an insured, and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of such company and providing that the amount of recovery on each wrecker shall be in limits of not less than \$500,000.00 for damages arising out of bodily injury to or death of one person in any one accident, and \$100,000.00 for injury to or destruction of property in any one accident. Failure to maintain insurance will result in immediate removal from the rotation list.

b. A list of all wrecker operators/drivers and a copy of their Texas Operator License shall be submitted with the above insurance policies. It shall be the obligation of the wrecker company to keep the South Padre Island Police Department informed of any changes in their drivers and to provide the city with evidence of compliance with Section 521.459 Transportation Code.

c. Each wrecker company on the rotation list must meet all vehicle storage facility requirements as stated in Section 18.91 and/or other applicable section(s) of the Texas Department of Transportation Motor Carrier Rules and Regulations and the requirements of this ordinance.

(3) Taxes. No delinquent taxes shall be due the city upon any wrecker company or vehicle storage facility for which such permit is sought.

(4) Fees.

a. *Annual fee.* There is hereby imposed an annual fee of \$50.00 per wrecker company. The fee will cover either or both, to be placed on the city rotation list and/or to conduct private property tows.

b. *Inspection fee.* There is hereby imposed an annual inspection of \$25.00 per wrecker unit for each unit of each wrecker company.

c. *Operator/driver permit.* While this ordinance does require permitting of tow truck operator/drivers, there is no charge for the operator/drivers permits issued by this agency.

(5) A copy of all current licenses, registration and/or certificates issued by the state allowing the applicant to operate a wrecker or a vehicle storage facility shall be required upon initial application and upon payment of annual fees per wrecker company or wrecker unit.

(6) Each wrecker unit shall have the wrecker company's name and telephone number of the business operating the wrecker unit permanently inscribed on each side of the cab of the wrecker in letters no less than two inches high in contrasting colors. No temporary signs of any kind will be permitted.

(7) A certification to continue providing services on the city's wrecker rotation list may be revoked for failure to meet and/or maintain the required standards and regulations of state law (including, but not limited to, Chapter 684 of the Transportation Code) and/or this Article.

(8) If a wrecker certification is revoked, the wrecker will not be allowed to continue service for calls from South Padre Island Police Department from the rotation list or private property towing, until the wrecker company produces proof of compliance with the required standards and regulations.

(9) Any wrecker conducting rotation and/or private property towing within the city limits, shall maintain or contract with, a state permitted vehicle storage facility within 10-miles (driving miles) of the City of South Padre Island, Texas. Vehicles towed pursuant to this ordinance shall be stored at a facility complying with this section.

(10) Any wrecker company conducting rotation and/or private property towing within the city limits, shall maintain a place of business for conducting operations, including towed vehicle storage, no further than State Hwy 100 and CR 510, Laguna Vista, or within 10-miles of South Padre Island's city limits.

(11) All wrecker companies must agree to comply with all sections of the South Padre Island Police Department wrecker ordinance/SOP, a copy of which will be provided at time of application or annual renewal.

(12) All wrecker companies applying for placement on the voluntary wrecker rotation list must agree to respond to all requests for wrecker service initiated by the city and must abide by this Article as well as all other applicable local, state and federal laws and regulations.

(13) All wrecker companies applying for placement on the voluntary wrecker must agree to send an authorized representative to all auctions at which that company has vehicles set for auction.

Sec. 11-204 STATE INSPECTION REQUIREMENT; WRECKER SAFETY AND INSURANCE COMPLIANCE INSPECTION CERTIFICATE

Each application for placement upon the wrecker rotation list, and those wrecker services conducting private property towing services, shall state that each wrecker of the company has been inspected and approved under the direction of the Texas Department of Public Safety, and a current inspection sticker shall be affixed securely to the inside of the windshield of the wrecker vehicle. No person shall operate a wrecker in the city unless a permit to engage in such activity has been issued to such wrecker by the South Padre Island Police Department. No permit or safety and insurance compliance inspection certificate shall be transferable, and every permit and safety and insurance compliance inspection certificate shall expire at midnight on December 31 of the calendar year in which issued. Each permit and safety and insurance compliance inspection certificate will be void immediately upon expiration and/or cancellation at which time any such wrecker shall no longer be used on rotation with the South Padre Island Police Department, and the wrecker company shall return the permit and safety and insurance compliance inspection certificate to the city police department upon request.

Sec. 11-205 SUSPENSION AND/OR REVOCATION OF PERMIT

For those wrecker companies engaged in providing services on the city's rotation list, the companies may have their permits suspended and/or revoked under the following conditions:

(1) A wrecker company may have its permit suspended:

a. For seven days for any violation of this Article or state law if a violation occurs within a twelve-month (12) period.

b. For twenty days for a second or subsequent violation of this Article or state law.

(2) A wrecker company may have its permit revoked:

a. For a third or subsequent violation of this Article or state law if a violation occurs within a twelve-month (12) period.

b. If it causes or permits the operation of a city certified wrecker either owned or contacted for, by an unlicensed driver on the public roadways.

c. If it causes or permits the operation of a wrecker (either owned or contracted for) not certified by the city, on the public roadways.

d. If it fails to maintain in force the insurance required for the operation of a wrecker company, vehicle storage facility or its wreckers as required by the laws of Texas.

e. If it or its employees or agents operates a wrecker or the wrecker company in any way which endangers the life or safety of any person, including but not limited to any of the following ways: (i) grossly negligent operation of a wrecker used by the wrecker company; (ii) Criminal assault committed by the permit holder, his agents, or employees during the normal course of business. The chief of police shall not revoke the permit if the permit holder permanently terminates the employment of such employee immediately upon its becoming known to him that such conduct did take place; (iii) intentionally submits false information on the application to be placed on the wrecker rotation list with the South Padre Island Police Department; (iv) convicted of a violation under this Article; (v) convicted of fraud or theft, as defined in the Texas Penal Code, in the conduct or operation of the permit holder's wrecker company; (vi) guilty of criminal trespass or theft.

Sec. 11-206 SUSPENSION OR REVOCATION HEARING

(a) Upon the filing of a written complaint against a wrecker company or any agent or employee thereof filed by any person with the chief of police or designated person, upon his own admonition charging violation of any of the terms of this Article or any ordinance of the city or laws of the state regulating motor vehicles or crimes of moral turpitude or for good cause shown, the chief of police or designated person *may* conduct a hearing with reference to such complaint, accordingly:

- (1) Notice of the hearing shall be sent to the wrecker company by certified letter, return receipt requested or by hand delivery.
 - (2) Said notice to the wrecker company shall set forth the section of this Article or state law the complaint is based upon, the allegations made against the wrecker company, and, where appropriate, the date and location the violation occurred.
 - (3) The hearing shall take place within ten (10) days of delivery of the notice of hearing, unless otherwise agreed by the parties. The wrecker company shall be provided by certified letter, return receipt requested or by hand delivery notice of the time, date, and location of the hearing.
 - (4) At the hearing the wreckers company may present evidence and testimony in its defense and may cross-examine any witnesses.
 - (5) After such hearing the chief of police may revoke or suspend the authorization of the wrecker service company to continue providing service on the city's wrecker rotation list, as well as revoke permits issued to conduct private property towing.
- (b) After the chief of police has reviewed the findings of the complaint for suspension or revocation of the permit of any wrecker company, he shall make a determination and declare such findings along with the terms, if any, of the suspension of a temporary or permanent nature. The decision of the chief of police shall be presented in writing and sent to the wrecker company by certified letter, return receipt requested or by hand delivery.
 - (c) The decision of the chief of police under this section may be appealed to the city manager, provided that notice of appeal must be perfected within ten calendar days from receipt of the chief of police's decision. Notice of appeal is perfected by sending a certified letter, return receipt requested, addressed to the city manager of the City of South Padre Island, stating that an appeal from the decision of the chief of police is desired. The city manager shall hold a hearing on the matter within a reasonable time after receipt of such return and shall issue a decision thereon within a reasonable time after such hearing which decision shall be final and un-appealable.

Sec. 11-207 WRECKERS TO BE SUMMONED BY POLICE OR FIRE; RESPONSE TIMES

- (a) No wrecker service shall drive to or near the scene or site of an accident or collision on the streets of the city unless such person/company has been called by the police or fire department or by the owner or operator of a vehicle involved in said collision; Only wreckers that have been officially summoned will be able to conduct the tow.
- (b) Wreckers summoned by the police department are subject to cancellation. Wreckers shall respond anywhere in the city within 30 minutes. If cancelled, the wrecker company will be placed back on the rotation list for another call. Wreckers summoned to calls where the police have not arrived, will not hook up the vehicle until the police arrive. Fees for non-hook ups will not be charged.

Sec. 11-208 SOLICITING WRECKER BUSINESS AT SCENE OF ACCIDENT PROHIBITED; PRESENCE AT SCENE AS EVIDENCE OF VIOLATION

No person shall solicit in any manner, directly or indirectly on the streets of the city, the business of towing any vehicle which is wrecked or disabled on a street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing such vehicle. Proof of the presence of any person engaged in the wrecker business or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the wrecker business, either as owner, operator, employee or agent, on any public street in the city at or near the scene or site of a wrecker, accident or collision, within one hour after the happening of a wrecker, accident or collision, shall be prima facie evidence of a solicitation in violation of this section.

Sec. 11-209 PROHIBIT INTERCEPTION OF COMMUNICATION FROM THE POLICE/FIRE DEPARTMENT RADIO FREQUENCY

No wrecker company, shall intercept any message emanating through the medium of the police or fire department radio frequency or divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication; and no person, not being entitled thereto, shall receive or assist in receiving any such message and use such message, or any information therein contained, for his own benefit or for the benefit of another person.

Sec. 11-210 WRECKER ROTATION LIST

- (a) If the owner of a vehicle involved in an accident or collision is physically unable to name the wrecker company desired, or declines to name one or if the South Padre Island Police Department is called

relating to a request for wrecker company, the investigating or responding officer or employee shall cause the request for wrecker company to be initiated from the wrecker rotation list maintained by the South Padre Island Police Department. Any wrecker company requesting to be placed on the city wrecker rotation list shall meet the requirements as set out in sec. 11-202 through 11-204 of this Article.

(b) The wrecker company shall immediately notify the chief of police or his designated person, in writing, of any changes in status as it relates to any insurance, drivers, wreckers' registration, certificates, vehicle storage facilities, permits or any factor that may impede its ability to comply with this Article.

(c) The wrecker company on the wrecker rotation list shall notify the South Padre Island Police Department on a form provided for that purpose of all abandoned vehicles, which were towed as a result of a rotation call, in their vehicle storage facility in accordance with Section 683.031 of the Texas Transportation Code. In addition the notification shall include the \$5.00 fee required by Section 683.031.

(d) On receiving a communication from the South Padre Island Police Department, the wrecker company presently on call, or its duly authorized agent, shall tow the disabled vehicle and remove such vehicle from the public streets of the city. On each succeeding communication or the inability or refusal of an owner to name a wrecker company, the next wrecker company on the list shall be called, and proper rotation on such list be on a per-call basis for each wrecker company holding a permit in accordance with procedures established by the chief of police.

(e) South Padre Island Police Department will be conducting periodic inspections for insurance, inspection certificates and permits of wreckers on rotation responding to calls for service. Wreckers that respond to calls for the police department that do not have an issued permit on file, will not be allowed to tow any vehicles. Violation of this article will result in a complaint filed against the wrecker company. The designated officer or person in charge of overseeing the wreckers on the rotation list can also upon request check receipts at the vehicle storage facility.

Sec. 11-211 PRIVATE PROPERTY TOWS

Only those wrecker companies approved and permitted by the city of South Padre Island can conduct private property contract towing within our city limits. Those approved tow companies will meet all the mandated requirements concerning licensing and insurance as specified in this ordinance. Private property towing includes but is not limited to condos, townhouses, and hotels. Wrecker companies approved to operate under the ordinance will agree to the following:

(1) The wrecker service will have in their office, a signed agreement with the owner/manager of said private property, or whomever has the authority to legally represent the private property, indicating their desire to have the towing enforced.

(2) For every vehicle towed, the wrecker service will indicate on their paperwork which private property representative approved that particular tow.

(3) Fees for private property tows will be followed as specified in sec. 11-212 of this Article.

(4) Wrecker services conducting private property tows, will within two (2) hours of towing a vehicle, notify the South Padre Island Police Department Dispatch by fax, using the designed form provided by the city, and by phone to a dedicated number. Phone numbers may be changed by giving notice to the Wrecker/Towing Companies. In the event of facsimile and/or phone problem, the wrecker service will drop-off the completed form to South Padre Island Police Department within the two-hour timeframe.

Sec. 11-212 MAXIMUM RATES

Approved wrecker companies conducting rotation and/or private towing services agree to follow the rates as set herein as a condition of being approved to operate within the city limits.

(1) The wrecker service fees for vehicles under three tons:

a. Police initiated / rotation calls: \$185.00

b. Private property tows: \$200.00

c. Add-on cost for equipment use, such as, dollies, go-jacks, skates and/or winching, the additional fee is \$30.

d. If the vehicle is located in high water an additional fee of \$50.00 per hour after the first hour may be charged.

e. If the wrecker company is required to wait more than one hour after arriving on the scene of the tow to connect the vehicle an additional fee of \$7.50 may be charge for each 15 minutes in wait time after the first hour.

f. If the vehicle owner or operator request that the vehicle be towed to a location outside the city limits the wrecker company may charge an additional fee of \$2.00 for every mile outside the city limits.

(2) The wrecker service fee for vehicles over three tons in response to a call from any employee of the city acting in his official capacity, shall be \$250.00 per hour with a one hour minimum. Additionally, vehicle owners requiring heavy-duty or specialty wreckers will be able to make arrangements with a heavy-duty wrecker service, with fees that are reasonable for that service.

(3) The wrecker service fee pursuant to sec. 11-213 of this Article, the "drop fee" shall be \$85.00.

Sec. 11-213 DROP FEES

If the owner or operator of a vehicle which is parked in violation of this Code or state law arrives after the wrecker has been physically attached to the vehicle, but before the vehicle is removed from the property, a towing company shall release the vehicle at the scene for a fee not to exceed the drop fee of \$85.00, as set forth in sec. 11-212 of this Article.

Sec. 11-214 SAFETY PRECAUTIONS

Each wrecker company that has been issued a permit by the police department shall follow standard safety precautions and operation procedures generally recognized in the wrecker business to and from and at the scene of an accident or collision and shall comply with all traffic laws, including local city ordinances. Each wrecker company at the scene of an accident or collision shall promptly remove all debris from the accident or collisions occurring on the public right of way.

Sec. 11-215 PENALTIES FOR VIOLATIONS

(a) Any owner of a wrecker company, agent or employee of a wrecker company, driver or operator of a wrecker found guilty of violating this ordinance or any of the state laws, shall upon conviction be subject to a fine, as provided by Sec. 21-1 the Code of Ordinances.

(b) Only permitted wrecker services of South Padre Island will be allowed to conduct police initiated rotation tows and private property contract tows for service. Unapproved and unpermitted wrecker companies conducting anything other than consent towing services to individuals will be issued a municipal court citation for violating this ordinance.

(c) In addition to the remedies in this section, the city shall be entitled to injunctive or other civil remedy in any court of competent jurisdiction in accordance with the laws of the state.

Sec. 11-216 MAXIMUM NUMBER OF WRECKER COMPANIES

The number of wrecker companies approved to operate on the city South Padre Island rotation list and/or to conduct private property towing within the city limits, shall be set by the city council from time to time and such number may be increased or decreased at the discretion of the city council, based partially on the police chief's recommendation. Upon adoption of this amended Sec. 11-216, those wrecker companies which are currently on the city's rotation list may continue on the rotation list and/or to conduct private property towing service, if they meet the criteria set out in this Chapter 11, they shall remain on the rotation list. Following that process, any remaining positions on the rotation list shall be filled by drawing from a pool of applicants created by the chief of police and certified to qualify pursuant to this Article.

(a) Currently the maximum amount of wrecker services authorized to conduct business on the police rotation list is five (5) wrecker services. They are: 1) Paradise Towing, 2) Bay Area Towing, 3) A-pro Island Beach Towing, 4) Cantu's Towing and 5) Isla Towing.

(b) Currently the maximum amount of wrecker services authorized to conduct private property towing services within the city limits of South Padre Island is five (5). They are: 1) Paradise Towing, 2) Bay Area Towing, 3) A-pro Island Beach Towing, 4) Cantu's Towing and 5) Isla Towing.

Sec. 11-215 to 11-219 reserved.

ARTICLE XII
SHORT TERM RENTALS

Sec.11-220. Short Term Rentals

(a) The purpose of this Article is to establish regulations for the use of residential single family dwelling units ("dwelling units" herein) as short term rentals and to ensure the collection and payment of hotel/motel occupancy taxes.

(b) For purposes of this Article a Short Term Rental (STR), is defined as a residential dwelling, including a single-family residence, apartment, residential condominium unit, or other residential real estate improvement, in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than 30 consecutive days. The term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling.

(c) For purposes of this Article: An Owner shall designate the Owner, or an Agent or a Representative to comply with the requirements of this section on behalf of the Owner. The Owner or designated agent or representative is referred to as "Operator" herein.

(d) The Owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short term rental unit, regardless of whether such noncompliance was committed by the Owner's authorized agent or representative or the occupants of the Owner's short term rental unit or their guests.

(e) This Article is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this section.

Sec.11-221 Registration

(a) The Owner/Operator who offers for rent or advertises for rent (in any manner) a short term rental of a dwelling unit shall obtain a short term rental registration and any other required documents from the Convention Centre Department of the City of South Padre Island located at 7355 Padre Blvd, South Padre Island, Texas, 78597. The Convention Centre Department may be contacted at phone number is 956-761-3000 for additional information.

(b) The Owner/Operator must submit the following information on a short term rental registration form:

- (1) The name, address, email and telephone number of the Owner/Operator of the subject short term rental unit;
- (2) The name, address, email and twenty-four hour telephone number of the local contact person;
- (3) The local contact person is the person designated by the owner or the operator who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of:
 - (1) responding in person within one hour to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit; and
 - (2) taking remedial action to resolve any such complaints.
- (4) The name and address of the proposed short term rental unit;
- (5) The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed short term rental unit;
- (6) The property ID number as listed on the Cameron County Appraisal District; and
- (7) Such other information as the City Manager, or designee, deems reasonably necessary to administer this section.

(c) If any information on the registration form changes, the Owner/Operator must modify that information within 30 days.

(d) Registration Fee

- (1) The short term rental registration form shall be accompanied by an initial registration fee as established by the City Council.
 - i. The initial rental registration fee shall be fifty dollars (\$50.00) (per rental unit).
 - ii. The initial registration fee is waived for those properties that have been properly remitting hotel occupancy tax.
- (2) A registration is valid from the date the completed registration is filed with the City and payment of the registration fee (if applicable) has been made, unless the ownership of the short term rental changes.
- (3) Each property shall be issued a registration number.

(e) The registration number must appear on any advertisement of the property available for short term rental.

Sec.11-222 Compliance -Penalty Provision

(a) The Owner or Operator shall comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short term rental unit, including, but not limited to, Chapter 12, "Noises" and Chapter 17, Article II "Hotel-Motel Occupancy Tax" of the City Code of South Padre Island. Pursuant to Sec. 17-10 of the city code, the Owner or Operator shall, submit a monthly report to the City, on the appropriate "Hotel Occupancy Tax Collection Report" form, even if the short term rental unit was not rented during any such month.

(b) Any violation of this Article XII may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense or for each day such offense shall continue and the penalty provisions of Section **21-1** of the Code of Ordinances is hereby adopted and incorporated for all purposes.