

Sec. 13-1, Hazardous Visual Obstructions

Section I. Definitions:

1. “Lot or parcel of real estate” shall mean and include, in addition to the ground within their respective boundaries, all parcels of ground lying and being adjacent to and extending beyond the property line of any such lot or parcel of real estate to the curb line of adjacent streets where a curb line has been established, and ten feet beyond the property line where no curb line has been established on adjacent streets.
2. “Owner” shall mean the person, firm, corporation, or other entity shown by Bexar County records to be the legal owner of a lot or parcel of real estate.
3. “City” shall mean the City of Terrell Hills, Texas.

Section II. Visual Obstruction A Hazard

The construction, placement, or maintenance of a fence, wall, vegetation, ground sign, or any other object that partially or totally obstructs the vision of the operator of a motor vehicle upon exiting a driveway onto a street or at the intersection of two or more streets, creates a hazardous condition which endangers the life, health, and safety of the public; therefore, any such hazardous visual obstruction upon a lot or parcel of real estate in the City is prohibited.

SECTION III. Notice To Abate And Service Of Notice

Upon receiving a complaint of a hazardous visual obstruction as described, the Chief of Police, or his designee, shall examine the named lot or intersection and determine whether or not such a hazard exists.

If the Chief of Police or the designee finds that a fence, wall, vegetation, ground sign, or other object is, in fact, a hazardous visual obstruction, notice to abate the hazard shall be given to the owner of such lot or parcel of real estate. Abatement shall occur no later than 30 days after notice is received; however, if the hazard is an imminent threat to public safety, the Chief of Police may order its immediate removal. Written notification to abate may be made by means of a Police Officer delivering the notice to said owner in person or by attaching the notice to the front door or by mailing the notice to same by Certified Mail, Return Receipt Requested. If the correct address of the owner of the lot or parcel of real estate cannot be ascertained after reasonable effort, notice may be served by publication as many as two (2) times within ten (10) consecutive days in a newspaper that is generally circulated in the City.

SECTION IV. Enforcement

In the event that the owner fails to abate the hazard within the time limit herein provided, the Chief of Police or his designee shall file a complaint in the Municipal Court of the City.

SECTION V. Penalty

Failure to abate such hazard is a misdemeanor, and an owner who is found guilty of such violation shall be fined not less than thirty-five dollars (\$35.00) nor more than two hundred dollars (\$200.00). Each day's violation shall constitute a separate offense.

SECTION VI. Removal of Hazard by City

In the event the hazard is an imminent threat to public safety, or of failure or refusal by the owner to abate the hazard, the Secretary Manager is hereby authorized and empowered to take action to remove the hazard and to charge the cost and expense of such work to the property owner. Such work may be done by contract let to the lowest bidder or by labor employed by the City under the supervision of the Secretary Manager or his designee. When the work has been completed, a statement of the cost thereof shall be sent to the owner of said lot or parcel of real estate for payment within ten days of the mailing of such statement.

SECTION VII. Lien for Expense

In the event of non-payment within the specified period, the Secretary Manager shall cause a statement to be filed in the office of the County Clerk showing the cost and expense of the work done on said property, the date performed, and the name of the owner. From the date of filing, the amount shown by such statement to have been expended by the City, together with 10 per cent annual interest, shall be a privileged lien thereon, second only to tax liens and street improvement liens.

SECTION VIII. Foreclosure of Lien

A suit may be instituted, and recovery and foreclosure of the lien for any such expenditures and interest may be had in the name of the City in any court having jurisdiction. The statement of the Secretary Manager or a certified copy of such statement shall be prima facie proof of the amount expended for the work done on said property.

SECTION IX.

This ordinance shall become effective immediately upon its adoption and its publication as provided by law and supercedes any and all previous ordinances addressing this subject, including Ordinance 85(2), 4-9-51.

Should any line, sentence, phrase, word, paragraph or section hereof be held to be invalid for any reason, all remaining provisions of this ordinance shall remain in full force and effect.
(Ord 1122, 10-14-02)

Sec. 13-2, Reducing Commercial Through Traffic

1. That the traffic route passing through the City of Terrell Hills described as consisting of that portion of Eldon Road commencing at Rittiman Road and extending south to Wiltshire Boulevard and then south along Wiltshire Boulevard to North New Braunfels Avenue, be and the same hereby is closed to use by truck-tractors, trailers, semi-trailers or any combination thereof in making one continuous journey through the City of Terrell Hills.
2. Any person driving or operating any vehicle described in the preceding paragraph in either direction along and upon such designated traffic route in one continuous journey through the City of Terrell Hills shall be guilty of an offense and upon conviction shall be fined not to exceed \$50.00.
3. Provided, however, that the use of such traffic route by any such prohibited vehicle shall not be unlawful when made in connection with or incident to a journey either originating within or terminating within the corporate limits of the City.
4. That this ordinance become effective upon the erection at either end of such designated traffic route appropriate signs giving notice to the public of such prohibited or restricted use and upon its publication as required by law.
(Ord. 28, 7-6-59)

Sec. 13-10, No Parking Within Fifteen Feet of Fire Hydrant

1. It shall be unlawful for any person to park, cause to be parked, or permit to be parked, any vehicle of which he or she is the owner, or of which he or she has custody and control, within fifteen feet of any fire hydrant within the corporate limits of the City of Terrell Hills, Texas.
2. The word “park” and its derivatives, when used in this article, shall mean to stop a vehicle and let it stand for more than three minutes upon a public street.
3. A police officer may order the removal and impoundment of any vehicle parked in violation of this ordinance.
4. Any person violating the provisions of this ordinance shall be guilty of an offense and upon conviction shall be fined not more than two hundred dollars.
(Ord 1165, 8-09-04)

Sec. 13-11, No Parking in Alley

1. That no person shall park any vehicle within any alley of the City in such a manner or under

such conditions as to leave available less than ten feet (10') of the width of the roadway for the free movement of vehicular traffic.

2. That no person shall stop, stand or park a vehicle within any alley in such position as to block the driveway entrance to any abutting property.

3. That the presence of any unattended vehicle in any alley of the City parked in violation of either of the two preceding paragraphs of this ordinance shall be prima facie evidence that the registered owner of such vehicle was the person who parked such vehicle at such location and in such manner.

4. That the parking of any such vehicle in violation of the provisions of this ordinance shall constitute an offense the punishment for which shall be a fine not to exceed two hundred dollars. (Ord. 106, 5-13-63)

Sec. 13-12, Parking of Commercial Vehicles

1. Effective November 1, 1974 it shall be unlawful for any person to park and leave unattended any commercial type motor vehicle having a capacity rating of more than one ton upon any public street or alley of the City of Terrell Hills between the hours of 12:00 o'clock midnight and 5:00 o'clock a.m.

2. During the interim between the effective date of this ordinance and this date it shall be the duty of any police officer observing any such motor vehicle parked habitually upon any public street or alley during the hours referred to in the preceding paragraph to notify the owner or person in charge of such vehicle of the provisions hereof and the effective date.

3. Commencing November 1, 1974 any person violating this ordinance shall be punished by a fine of not more than \$200.00. (Ord. 359, 10-7-74)

Sec. 13-13, No Street Parking Between 2 and 5 a.m.

1. No person shall at any time park or leave standing any vehicle, motor vehicle, or boat, on any street or alley in the City of Terrell Hills between the hours of 2:00 a.m. and 5:00 a.m. There is a presumption that any vehicle so parked was parked by the registered owner of that vehicle.

2. Any person who violates any provision of this ordinance shall be guilty of an offense and upon conviction thereof in Municipal Court of Terrell Hills shall be fined no more than \$200. Each day's violation shall be a separate offense.

3. Any vehicle, motor vehicle, or boat, that is left parked or standing on any street or alley in the City of Terrell Hills between the hours of 2:00 a.m. and 5:00 a.m. may be removed by the Police Department, but only after Police Department personnel have first issued (1) a written warning, and then (2) a written parking citation within a twelve month period.

4. Any persons owning or occupying premises in the City of Terrell Hills may apply in person to the Chief of Police for a permit for parking on a city street, during the prohibited hours, any motor vehicle owned by persons occupying such premises. This permit shall be issued by the Chief of Police, unless such parking creates a traffic hazard or otherwise adversely impacts public safety. This permit will be in the form of a decal to be displayed on the windshield of the vehicle above the vehicle's registration decal.

5. Any persons owning or occupying premises may obtain a temporary permit for a period not to exceed ten days for visitors or persons temporarily staying at such premises who possess motor vehicles that might be parked on the street during the prohibited hours. Such temporary permit shall have an expiration date and be placed on the dashboard on the driver's side or posted in a conspicuous place at the police department. Temporary permits may be obtained from the police department during business hours prior to the time such vehicle is parked. Telephonic permission may be obtained for overnight parking. Such permit shall be granted unless such parking creates a traffic hazard or otherwise adversely impacts public safety.

(Ord. 1104, 3-18-02)

Sec. 13-14, Temporary One-Ways and No Parking Zones

1. That the Terrell Hills Police Department is authorized to temporarily close off any street or establish one-way traffic on any section of street within the city limits of the City of Terrell Hills for purposes of expediting the flow of traffic.

2. That the Terrell Hills Police Department is authorized to temporarily restrict parking on any street in the City for purposes of expediting the flow of traffic.

3. That the disobeying of the temporary traffic control devices or instructions by a police officer shall constitute an offense, the punishment for which shall be a fine of not less than \$2.00 nor more than \$200.00.

(Ord. 676, 7-9-84)

Sec. 13-15, No Parking Off Pavement

1. Definitions: As used herein the terms "front yard set back area" of a lot means that portion of the lot between the building set back line and the front street property line as established by the provisions found in Chapter 14 Zoning, of the City Code of Ordinances; and the term "side yard set

back area" of a lot means that portion of the lot between the building set back line and a side street property line as established by said Chapter.

2. It shall be unlawful for any person owning or having control of any vehicle, boat, trailer, camper, or motorcycle to park or allow it to be parked in the front yard set back area or in the side yard set back area of any lot located in any Zoning District of the City of Terrell Hills as established by the Comprehensive Zoning Ordinance Codified in Chapter 14 unless:

A. It is parked upon a clearly defined and permanently constructed driveway serving said lot; or

B. It is parked upon a permanently maintained parking area constructed of brick, concrete, or asphalt to define the parking area, and provided that the permanent parking area complies with the limitations of parking design standards found in Chapter 14 of the City Code of Ordinances.

C. The City Manager, or their designee, may consider and approve materials other than those required in Subsection B. above, provided they reduce the non-permeability of the area significantly reducing water run-off from the area.

3. A violation of this ordinance shall be punishable by a fine not less than \$50.00 nor more than \$500.00 and each day that a violation continues shall be a separate offense.

4. This ordinance shall take effect immediately upon its passage, approval and publication according to law.

5. If any section or part of any section or paragraph of this ordinance is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force, or effect of any other section or sections or part of a section or paragraph of this Ordinance.

6. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.
(Ord. 1273, 9-08-08)

Sec. 13-19, Construction in the Public Right-of-Way

SECTION 1 - FINDINGS AND PURPOSE.

The purpose of this Ordinance is to:

- (A) Assist in the management of Facilities placed in, on or over the Public Right-of-Way in order to

- minimize the congestion, inconvenience, visual impact and other adverse effects, and the costs to the citizens resulting from the placement of facilities within the Public Right-of-Way;
- (B) Govern the use and occupancy of the Public Right-of-Way;
 - (C) Assist the City in its efforts to protect the public health, safety and welfare;
 - (D) Conserve the limited physical capacity of the Public Right-of-Way held in public trust by the City;
 - (E) To preserve the physical integrity of the streets and highways; To control the orderly flow of vehicles and pedestrians; Keep track of the different entities using the right-of-way to prevent interference between them;
 - (F) Assist on scheduling common trenching and street cuts; and
 - (G) Protect the safety, security, appearance and condition of the Public Right-of-Way.

This Ordinance may be referred to as the “Construction in the Public Right-of-Way Ordinance.

SECTION 2-AUTHORITY; SCOPE

This Ordinance applies to all Persons that place Facilities in, on or over Public Right-of-Way.

SECTION 3 – DEFINITIONS

In this Chapter:

- (A) Affiliate means a Person who controls, is controlled by, or is under common control with a Provider.
- (B) Certificated Telecommunications Provider means the same as in Local Government Code Section 283.002(2) [any entity that has been granted a certificate from the Texas Public Utility Commission under Chapter 54 of Tex. Utility Code authorizing that entity to provide local exchange telephone service].
- (C) City means The City of Terrell Hills, Texas. As used throughout, the term City also includes the designated agent of the City.
- (D) City Manager means the City Manager of the City or the City Manager's designee.
- (E) Direction of the City means all ordinances, laws, rules, resolutions, and regulations of the City that are not inconsistent with this Ordinance and that are now in force or may hereafter be passed and adopted.
- (F) Facilities means any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, underground and overhead passageways and other equipment, structures, plant and appurtenances and all associated physical equipment placed in, on or under the Public Rights of

Way.

(G) Person means a natural Person (an individual), corporation, company, association partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity.

(H) Public Right-of-Way means the same as in the Texas Local Government Code, § 283.002(6), [the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a Public Right-of-Way with regard to wireless telecommunications.]

SECTION 4 - MUNICIPAL AUTHORIZATION REQUIRED

(A) Any Person seeking to place Facilities on, in or over the Public Right-of-Way shall first file an application for a building permit with the City and shall abide by the terms and provisions of this Ordinance pertaining to use of the Public Right-of-Way.

(B) Any Person, except a Certificated Telecommunications Provider, prior to placing, reconstructing, or altering Facilities in, on or over the Public Right-of-Way, must obtain separate municipal authorization from the City.

(C) Any Person with a current, unexpired consent, franchise, agreement or other authorization from the City ("Grant") to use the Public Right-of-Way that is in effect at the time this Ordinance takes effect shall continue to operate under and comply with that Grant until the Grant expires or until it is terminated by mutual agreement of the City and the Person, or terminated as otherwise provided for in law.

SECTION 5 - ADMINISTRATION AND ENFORCEMENT.

(A) The City Manager shall administer and enforce compliance with this Ordinance.

(B) A Person shall report information related to the use of the Public Right-of-Way that the City Manager requires in the form and manner reasonably prescribed by the City Manager.

(C) The City Manager shall report to the City Council upon the determination that a Person has failed to comply with this Chapter.

SECTION 6 - CONSTRUCTION OBLIGATIONS

A Person is subject to police power regulation of the City to manage its Public Right-of-way in connection with the construction, expansion, reconstruction, maintenance or repair of Facilities in the Public Right-of-way, pursuant to the City's rights as a custodian of public property, based upon the

City's historic rights under state and federal laws. Such regulations include, but are not limited to, the following:

- (1) At the City's request, a Person shall furnish the City accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of Facilities performed by the Person in the Public Right-of-Way.
- (2) A Person may be required to place certain Facilities within the Public Right-of-Way underground according to applicable City requirements absent a compelling demonstration by the Person that, in any specific instance, this requirement is not reasonable or feasible nor is it equally applicable to other similar users of the Public Right-of-Way.
- (3) A Person shall perform operations, excavations and other construction in the Public Right-of-Way in accordance with all applicable City requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the Public Right-of-Way. The City shall waive the requirement of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the City by the Person. All excavations and other construction in the Public Right-of-Way shall be conducted so as to minimize interference with the use of public and private property. A Person shall follow all construction directions given by the City in order to minimize any such interference.
- (4) A Person must obtain a permit, as required by applicable City codes, prior to any excavation, construction, installation, expansion, repair, removal, relocation or maintenance of the Person's Facilities. Once a permit is issued, the Person shall give to the City a minimum of forty-eight (48) hours notice (which could be at the time of the issuance of the permit) prior to undertaking any of the above listed activities on its Network in, on, or under the Public Right-of-Way. The failure of the Person to request and obtain a permit from the City prior to performing any of the above listed activities in, on, or over any Public Right-of-Way, except in an emergency as provided for in Subsection (II) below, will subject the Person to a stop-work order from the City and enforcement action pursuant to the City's Code of Ordinances. If the Person fails to act upon any permit within 90 calendar days of issuance, the permit shall become invalid, and the Person will be required to obtain another permit.
- (5) When a Person completes construction, expansion, reconstruction, removal, excavation or other work, the Person shall promptly restore the Right-of-Way in accordance with applicable City requirements. A Person shall replace and properly relay and repair the surface, base, irrigation system and landscape treatment of any Public Right-of-Way that may be excavated or damaged by reason of the erection, construction, maintenance, or repair of the Person's Facilities within thirty (30) calendar days after completion of the work in accordance with existing standards of the City in effect at the time of the work.

(6) Upon failure of a Person to perform any such repair or replacement work, and five (5) days after written notice has been given by the City to the Person, at the sole cost and expense of the Person, the City may repair such portion of the Public Right-of-Way as may have been disturbed by the Person, its contractors or agents. Upon receipt of an invoice from the City, the Person shall pay the City for the costs so incurred within thirty (30) calendar days from the date of the City invoice.

(7) Should the City reasonably determine, within two (2) years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional restoration work to meet existing standards of the City, a Person shall perform such additional restoration work to the satisfaction of the City, subject to all City remedies as provided herein.

(8) Notwithstanding the foregoing, if the City determines that the failure of a Person to properly repair or restore the Public Right-of-Way constitutes a safety hazard to the public, the City may undertake emergency repairs and restoration efforts. At the sole cost and expense of the Person, the Person shall promptly pay the City for all costs incurred by the City within thirty (30) calendar days from the date of the City invoice.

(9) A Person shall furnish the City with construction plans and maps showing the location and proposed routing of new construction or reconstruction at least fifteen (15) days before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the Public Right-of-way. A Person may not begin construction until the location of new Facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the City, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the Facilities and routing.

(10) If the City Manager declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of Facilities, a Person shall remove or abate the Person's Facilities by the deadline provided in the City Manager's request. The Person and the City shall cooperate to the extent possible to assure continuity of service. If the Person, after notice, fails or refuses to act, the City may remove or abate the facility, at the sole cost and expense of the Person, without paying compensation to the Person and without the City incurring liability for damages.

(11) Except in the case of customer service interruptions and imminent harm to property or Person ("Emergency Conditions"), a Person may not excavate the pavement of a street or public Right-of-Way without first complying with City requirements. The City Manager or designee shall be notified immediately regarding work performed under such Emergency Conditions, and the Person shall comply with the requirements of City standards for the restoration of the Public

Right-of-Way.

(12) Within forty-five (45) days of completion of each new permitted section of a Person's Facilities, the Person shall supply the City with a complete set of "as built" drawings for the segment in a format used in the ordinary course of the Person's business and as reasonably prescribed by the City, and as allowed by law.

(13) The City may require reasonable bonding requirements of a Person, as are required of other entities that place Facilities in the Public Right-of-Way.

SECTION 7 - CONDITIONS OF PUBLIC RIGHT-OF-WAY OCCUPANCY

(A) In the exercise of governmental functions, the City has first priority over all other uses of the Public Right-of-way. The City reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachments, restructuring or changes in aerial Facilities in, across, along, over *or* under a public street, alley or Public Right-of-Way occupied by a Person, and to change the curb, sidewalks or the grade of streets.

(B) The City shall assign the location in or over the Public Right-of-Way among competing users of the Public Right-of-Way with due consideration to the public health and safety considerations of each user type, and to the extent the City can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law.

(C) If the City authorizes abutting landowners to occupy space under the surface of any public street, alley, or Public Right-of-Way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the Public Right-of-Way. If the City closes or abandons a Public Right-of-Way that contains a portion of a Person's Facilities, the City shall close or abandon such Public Right-of-Way subject to the rights of the Person.

(D) If the City gives written notice, a Person shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of Person's Facilities that are in the Public Right-of-Way within 120 days, except in circumstances that require additional time as determined by the City based upon information provided by the Person. For projects expected to take longer than 120 days to remove, change or relocate, the City will confer with Person before determining the alterations to be required and the timing thereof. The City shall give notice whenever the City has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a City or other governmental public improvement in the Public Right-of-Way. This section shall not be construed to prevent a Person's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with Person.

If the Person fails to relocate Facilities in the time allowed by the City in this Section, the Person can be subject to liability to the City for such delay and as set forth in the City Codes or Ordinance, now or hereafter enacted.

Notwithstanding anything in this Subsection (D), the City Manager and a Person may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.

(E) During the term of its Municipal Consent, a Person may trim trees in or over the Right-of-Way for the safe and reliable operation, use and maintenance of its Facilities. All tree trimming shall be performed in accordance with standards promulgated by the City. Should the Person, its contractor or agent fail to remove such trimmings within twenty-four (24) hours, the City may, at the sole cost and expense of the Person, remove the trimmings or have them removed, and upon receipt of a bill from the City, the Person shall promptly pay the City for all costs incurred within thirty (30) working days.

(F) Persons shall temporarily remove, raise or lower its aerial Facilities to permit the moving of houses or other bulky structures, if the City gives written notice of no less than 48 hours. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. Person may require prepayment or prior posting of a bond from the party requesting temporary move.

SECTION 8 - INSURANCE REQUIREMENTS

A Person shall obtain and maintain insurance in the amounts prescribed by the City with an insurance company licensed to do business in the State of Texas acceptable to the City throughout the term of a Municipal Consent conveyed under this Chapter. A Person shall furnish the City with proof of insurance at the time of the request for building permits. The City reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the City Manager determines that changes in statutory law, court decisions, or the claims history of the industry or the Person require adjustment of the coverage. For purposes of this section, the City will accept certificates of self-insurance issued by the State of Texas or letters written by the Person in those instances where the State does not issue such letters, which provide the same coverage as required herein. However, for the City to accept such letters the Person must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the City, based on financial information requested by and furnished to the City. The City's current insurance requirements are described in Exhibit "A" attached hereto.

Person shall furnish, at no cost to the City, copies of certificates of insurance evidencing the coverage required by this Section to the City. The City may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the City, the Person, or the underwriter.

If the City requests a deletion, revision or modification, a Person shall use reasonable efforts to accomplish the change, which change shall be made at the person's sole cost and expense.

An insurance certificate shall contain the following required provisions:

- (1) name the City of Terrell Hills and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;
- (2) provide for 30 days notice to the City before cancellation, non-renewal, or material change; and
- (3) provide that notice of claims shall be provided to the City Manager by certified mail.

Person shall file and maintain proof of insurance with the City Manager. An insurance certificate obtained in compliance with this section is subject to City approval. The City may require the certificate to be changed to reflect changing liability limits. A Person shall immediately advise the City Attorney of actual or potential litigation that may develop may affect an existing carrier's obligation to defend and indemnify.

(E) An insurer has no right of recovery against the City. The required insurance policies shall protect the Person and the City. The insurance shall be primary coverage for losses covered by the policies.

(F) The policy clause "Other Insurance" shall not apply to the City if the City is an insured under the policy.

(G) The Person shall pay all premiums and assessments for the insurance coverage required under this section eight. A company which issues an insurance policy has no recourse against the City for payment of a premium or assessment. Insurance policies obtained by a Person must provide that the issuing company waives all right of recovery by way of subrogation against the City in connection with damage covered by the policy.

SECTION 9 - INDEMNITY

(A) Except as to Certificated Telecommunications Utilities, each Person placing Facilities in the Public Right-of-Way shall agree to promptly defend, indemnify and hold the City harmless from and against all damages, costs, losses or expenses:

- (i) for the repair, replacement, or restoration of City's property, equipment, materials, structures and Facilities which are damaged, destroyed or found to be defective as a result of the Person's acts or omissions
- (ii) from and against any and all claims, demands, suits, causes of action, and judgments for
 - (a) damage to or loss of the property of any Person (including, but not limited to the Person, its agents, officers, employees and subcontractors, City's agents, officers and employees, and third parties); and/or

(b) (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any Person (including, but not limited to the agents, officers and employees of the Person, Person's subcontractors and City, and third parties), arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the Person, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this Ordinance.

(B) This indemnity provision shall not apply to any liability resulting from the negligence of the City, its officers, employees, agents, contractors, or subcontractors.

(C) The provisions of this indemnity is solely for the benefit of the City and is not intended to create or grant any rights, contractual or otherwise, to any other Person or entity.

SECTION 10 - SEVERABILITY

The provisions of this ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new or revised provisions in compliance with the authority's decision or enactment.

SECTION 11 - GOVERNING LAW

This Ordinance shall be construed in accordance with the City Code(s) in effect on the date of passage of this Ordinance to the extent that such Code(s) are not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas, subject to the City's ongoing authority to adopt reasonable regulations to manage its Public Right-of-Way, pursuant to Sections 6 and 7 or as otherwise provided by law.

SECTION 12 - UNAUTHORIZED USE OF PUBLIC RIGHT-OF-WAY

The City may institute all appropriate legal action to prohibit any Person from knowingly using the Public Right-of-way unless the Person has complied with the terms of this Ordinance.

SECTION 13 – EFFECTIVE DATE

This Ordinance takes effect on the 8th day of August 2005.
(Ord1186, 8-08-05)

Sec. 13-20, No Waste Water Drainage onto Public Streets

Section 1. It shall be the duty of every person, firm or corporation owning, occupying or

controlling property and the agents, servants and employees of any of them abutting on or adjacent to any street, alley or public way within the limits of the Town of Terrell Hills to provide for the disposition through sewers connected with the general sewer system or systems serving the area within the corporate limits of the town all waste water and liquid waste from the property owned, occupied or controlled by them and it shall be unlawful for any person, firm or corporation and/or the agents, servants and employees of any of them to allow by act or omission the drainage or flow of water or liquid waste into any street, alley or public way from the property owned, occupied or controlled by them.

Section 2. The term "water or liquid wastes" as used in Section 1 of this Ordinance shall include all water and liquids, whether carrying suspended solids or not, conducted to the premises through water systems or produced upon or conducted to the property from wells and which has been used in whole or in part through plumbing fixtures or for the watering of vegetation, the filling of swimming pools or for any other purpose or which may be allowed to flow unused upon such property and allowed to escape therefrom to any such street, alley or public way.

Section 3. Any person, firm or corporation violating any provision off this Ordinance, or who fails to perform the duty imposed thereby, shall be deemed guilty of a misdemeanor and shall be fined not less than \$10.00 and not more than \$100.00 for each offense, and each day upon which such violation occurs shall be a separate offense for which a separate fine shall be assessed. (Ord. 85(8), 4-5-54)

Sec. 13-21, Street Cuts and Improvements

1. It shall be unlawful for any person, firm, or corporation to make or cause to be made any cut in an existing curb or paved surface of any public street in the City of Terrell Hills, or to make any excavation beneath the surface thereof, without having first obtained a permit to do so from the Building Inspector.

2. The application for such permit shall be in writing and shall specify the nature and location of the proposed work. If it is proposed to cut an existing curb or the paved surface of the street, the application shall state with particularity why the work cannot be accomplished through means of horizontal boring. The application shall be accompanied by a permit fee of \$25.00 which shall be returned to the applicant in the event no permit is granted.

3. The application shall immediately be forwarded by the Building Inspector to the City Engineer for study and for determination of the nature of the permit, if any, to be granted and he shall thereafter either grant or deny the application in accordance with such determination by the City Engineer.

4. In every instance where a permit is issued, the City Engineer shall be promptly advised and shall thereafter make such inspections of the work undertaken as may be necessary to insure

compliance with the following provisions of this ordinance where cutting and patching is involved, or to insure that the boring is properly performed where the permit authorizes boring only.

5. Any cutting of an existing curb or paved street surface, backfilling, excavation and patching authorized by such permit shall be accomplished by the permittee through the use of materials meeting the following specifications and through use of the following construction methods:

MATERIALS

Flexible Base Material: The flexible base material shall consist of argillaceous limestone, calcareous or calcareous clay particles with or without stone, conglomerate, gravels sand, and other granular materials. The grading and quality of the material when properly slaked and tested by standard laboratory methods shall be in accordance with the following limits:

Passing 2 1/2" Screen -----	100%
Retained on 1/2" Screen -----	20 to 60%
Retained on 1/4" Screen -----	40 to 75%
Retained on 40-Mesh Sieve -----	60 to 85%

The material passing the 40-Mesh sieve shall be known as Soil Binder and shall meet the following requirements:

- The liquid limit shall not exceed ----- 45
- The plasticity index shall not exceed --- 15
- The linear shrinkage shall not exceed -- 8.5%

(NOTE: The linear shrinkage shall be calculated from the volumetric shrinkage at the liquid limit.)

The material as obtained from the pit shall be of uniform character; abrupt changes in grading soil binder characteristics or other properties shall be cause for rejection.

Cement: Portland cement shall be Type I and shall meet the requirements of ASTM Designation D150-49. All cement shall be delivered in bags plainly marked with the brand and name of the manufacturer.

Bituminous Material: Bituminous material for prime and/or tack coats shall meet the following requirements:

	<u>GRADE MC-1</u>		<u>GRADE RC-2</u>	
	<u>Min.</u>	<u>Max.</u>	<u>Min.</u>	<u>Max.</u>
Viscosity (Furol A 122° F.) Sec.	110	150	200	275

Flash Point C.O.C.° F. 80 80

When distilled by ASTM Method D-402, the distillate off volume shall be as follows:

	<u>GRADE MC-1</u>		<u>GRADE RC-2</u>	
	<u>Min.</u>	<u>Max.</u>	<u>Min.</u>	<u>Max.</u>
Off at 437° F. % -----		10	10	
Off at 600° F. % -----	25			
Off at 680° F. % -----		50	30	
Off between 600° & 680° F. %			5	

The residue, when poured from the flask without cooling, immediately upon reaching the maximum temperature specified, shall have the following characteristics:

	<u>GRADE MC-I</u>		<u>GRADE RC-2</u>	
	<u>Min.</u>	<u>Max.</u>	<u>Min.</u>	<u>Max.</u>
Penetration at 77° F, 100 gms.5 sec	125	200	120	150
Ductility at 77° F, 5 cms/min., cms.	100		100	
Solubility in CC14, % -----	99.5		99.5	

The material shall be free from water.

Rock Asphalt: Rock asphalt shall be limestone rock asphalt obtained from deposits which for a period of at least two years have produced raw rock asphalt that has been used as surfacing and proved satisfactory in service when placed in the general manner prescribed herein. The limestone shall be practically free from sulphates, iron pyrites, alumina, or other objectionable material.

The rock asphalt shall be uniform, well-graded, natural, or blended rock asphalt, consisting of from 5 to 8 per cent asphalt and 92 to 95 per cent limestone, and shall have a per cent of wear of not more than 45 when subjected to the Los Angeles Abrasion Test of Coarse Aggregates (AASHO Method T96).

When tested by approved laboratory methods the material shall meet the following graded requirements:

	<u>TYPE "A"</u>	<u>TYPE "B"</u>
Retained on 1-inch screen -----	0%	
Retained on 3/4-inch screen -----	1 to 15%	
Retained on 5/8-inch screen -----	0%	
Retained on 1/2-inch screen -----	15 to 35%	0 to 10%

Retained on 1/4-inch screen -----	40 to 60%	30 to 60%
Passing 10-mesh sieve -----	30 to 45%	20 to 35%

The fluxing material used shall have the following characteristics:

	<u>Min.</u>	<u>Max.</u>
Viscosity (Furol 60 cc at 122° F.) -----	50	100
Flash Point (Closed Cup)-----	250	
Loss 50 gm. 5 hrs. at 325° F. -----	0	5

It shall be free from foreign matter and practically free from water.

CONSTRUCTION METHODS

Cutting: Pavement shall be cut with an approved machine, or by approved hand methods. The cut edges shall be straight and the width of trench shall be uniform and no greater than necessary to permit work within the trench. All base and asphaltic material shall be disposed of and shall not be reused.

Backfill: All trenches and excavations shall be backfilled within 24 hours after pipes or structures are installed. Backfill material containing stones or rock three inches in diameter or larger shall not be used. Backfill material shall be placed in loose layers not to exceed 8 inches in depth; each layer shall be compacted separately with pneumatic tampers, to the density of the surrounding earth as determined by AASHO Designation T-99. This procedure shall continue to a point 92" below the existing asphalt surface.

Base: After the last layer of backfill has been placed to grade, 8 inches of cement stabilized crushed base material shall be placed in two 4" layers. Cement shall be added to the base material at a rate of 7 per cent by volume. Each layer of base shall be compacted to 90 per cent of maximum density as determined by AASHO Designation T-99.

Replacing Asphalt Surfacing: The surface of the compacted base shall be thoroughly cleaned and a tack coat of RC-2 cut-back asphalt shall be applied at a rate of 0.10 gallon per square yard. Where existing surfacing thickness is one inch or less, Type "B." Limestone Rock Asphalt shall be used. The new surfacing shall be of the same thickness as the existing surfacing, but shall not be less than one inch in thickness.

The surface of the pavement after completion shall not deviate by more than one-eighth (1/8) inch from the line and grade of the original surface.

Clean-Up and Restoration of Site: After the patching operation is completed, the permittee shall dispose of all surplus material, dirt, and rubbish, and shall remove all tools and other equipment used by him, leaving the entire site free, clear, and in as good a condition as existed prior to the start of the work.

Inspections: Prior to commencing backfilling, the permittee shall notify the City Engineer and shall not proceed further until either the City Engineer or his representative is actually present at the job site for the purpose of inspecting the restoration of the surface as the work progresses. All boring shall be done under the direct supervision of the City Engineer or his representative, and it shall be the permittee's responsibility to notify the City Engineer of the time when the boring will be commenced and to arrange for either the City Engineer or his representative to be present at the time the boring is done.

Replacing Concrete Surfacing: Should the permit authorize the cutting of a street surface paved with concrete, the permittee shall restore the surface in accordance with specifications prescribed by the City Engineer.

6. All permits issued pursuant to the provisions of this ordinance shall be invalid at the expiration of thirty (30) full days after the date of issue.

7. Any person, firm, or corporation who shall violate any provision of this ordinance or fail to comply therewith in any respect, or who shall cut any existing curb or the paved surface of any public street in the City of Terrell Hills or shall make any excavation beneath the surface thereof without first obtaining a permit to do so as herein specified shall be guilty of a misdemeanor and shall be fined not more than \$200.00. Each day such violation shall exist or be permitted to exist shall constitute a separate offense.

8. If any section, paragraph, division, clause, phrase or provision of this ordinance shall be adjudged invalid or held to be unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any other part or provision thereof, and the same is so enacted as if such invalid portion had been omitted.

(Ord. 92, 12-10-62)

Sec. 13-22, Addendum to Street Cutting Ordinance

1. That so far as same shall relate to or affect work undertaken by the City Water Board, City Public Service Board or Public Works Department of the City of San Antonio, Texas, in the maintenance of the various utilities owned and operated by them within the corporate limits of the City of Terrell Hills, Ordinance No. 92, passed and approved December 10, 1962, be and the same hereby is amended as follows:

(a) The provisions of Paragraph 2 of said Ordinance requiring payment of a permit fee of \$25.00 shall not apply.

(b) In cases of bona fide emergency the provisions of said Paragraph 2, requiring a written application and issuance of a permit prior to the making of any street or curb cut or excavation shall not apply, but in such cases notice of such emergency shall be given to the Building Inspector, in his absence to the Police Dispatcher, and the required work may then proceed without the necessity of such prior application and permit. However, in all such cases, written report of the work undertaken shall be made to the Building Inspector within twenty-four hours after the commencement of same.

(c) In addition to the rock asphalt specified under "Materials" in said Ordinance No. 92, it shall be permissible to replace asphalt paving in street cuts through use of Type "DD" Hot Mix-Cold Laid Asphaltic Concrete Pavement (Class A) as set forth in Item 350 of the 1962 Texas Highway Department Standard Specifications for Road and Bridge Construction.

(d) Inspections by the City Engineer will not be required, but in every instance a written release shall be obtained from the Building Inspector when the work has been completed.

(e) The following materials and construction methods shall govern the replacement of concrete surfaces:

CUTTING: Concrete surfaces shall be cut with a concrete saw or other approved machine. The cut edges shall be straight and the width of the trench shall be uniform and no greater than necessary to permit work within the trench. All base material and broken pieces of concrete shall be disposed of and shall not be used for backfill material.

BACKFILL: All trenches and excavations shall be backfilled within forty-eight hours after pipes or structures are installed or repaired. Backfill material containing stones or rock three inches in diameter or larger shall not be used. Backfill material shall be placed in loose layers not to exceed eight inches in depth; each layer shall be compacted separately with pneumatic tampers, to the density of the surrounding earth as determined by AASHO Designation T-99. This procedure shall continue to a point sixteen inches below the existing concrete surface.

BASE: After the last layer of backfill material has been placed to grade, eight inches of cement stabilized flexible base material (as described in Ordinance No. 92) shall be placed in two layers. Cement shall be added to the base material at a rate of seven per cent by volume. Each layer of base shall be compacted to ninety per cent of maximum density as determined by AASHO Designation T-99.

REPLACING CONCRETE SURFACE: The surface of a replaced concrete section shall consist of 2500 PSI transit mixed concrete having a two-inch minimum, five-inch maximum job-site slump. The concrete pavement shall be replaced to a thickness of eight inches or to the same thickness as

the existing pavement, whichever is greater. The finished concrete surface shall be identical with the adjacent undisturbed concrete surface in both form and finish and shall contain such expansion joints, dummy joints, reinforcing steel and other materials as were contained in the removed section.

2. That all other provisions of said Ordinance No. 92 as they relate to such work shall be and hereby are continued in full force and effect.
(Ord. 117, 10-15-63)

Sec. 13-23, No Motor-Powered Vehicles in Drainage Ditch

1. It shall be unlawful for any adult person to operate a motor-powered vehicle within the confines, or on the abutments, of the City-owned drainage ditch which follows the trace of Crestwood Drive,

2. It shall be unlawful for any parent, guardian, managing conservator, possessory conservator, custodian or other adult person to knowingly permit any child, ward or other person under the age of 18 years and subject to his discipline and control, to operate a motor-powered vehicle within the confines, or on the abutments, of said drainage ditch,

3. Any violation of the provisions of this ordinance shall be punishable by a fine not exceeding \$200.
(Ord. 428, 5-16-77)

Sec. 13-24, Junked Vehicle

1. As used in the ordinance, “junked vehicle” means a vehicle that is self-propelled and inoperable and:

- (1) does not have lawfully attached to it:
 - (A) an unexpired license plate; or
 - (B) a valid motor vehicle inspection certificate;
- (2) is wrecked, dismantled or partially dismantled, or discarded, or
- (3) has remained inoperable for more than 45 consecutive days.

2. A junked vehicle, including a part of a junked vehicle that is visible from a public place or public right-of-way:

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

(7) is a public nuisance.

3. The following procedures are hereby adopted and established for the abatement and removal of junked vehicles or parts thereof, as public nuisances, from private property, public property or public rights-of-way.

4. The Chief of Police or his designee shall order the owner of any private premises, if in possession thereof, or the occupant of any private premises; or the owner as shown by the current deed records of Bexar County, Texas, of any occupied premises within the City, upon which is located a junked vehicle, to abate said public nuisance and remove said junked vehicle from said property not later than the 10th day after the date on which the notice was personally delivered or mailed. Notice will be personally delivered or sent by certified mail with a five day return requested to:

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

5. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.

6. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

7. The owner or occupant of private premises on which a junked vehicle is located or the owner or occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists, may within ten days after the receipt of notice to remove or abate the same, request of the Secretary-Manager that a public hearing be held before the City Council prior to the removal of the vehicle or part thereof as a public nuisance. In the event such request for hearing is made within such ten-day period, the matter shall be heard by the City Council, either at its next regular meeting or at a special meeting as the Council may elect by resolution. The hearing before Council shall be administrative in nature. A record shall be made which shall include the names of those appearing before Council, a description of the vehicle, the identification number and most recent license number if available and the decision of the Council as to whether or not the vehicle is, in fact, a junked vehicle. Upon determination by a majority of the Council that such motor vehicle is a junked vehicle and therefore in violation of this Ordinance, the owner or occupant of the premises upon which the motor vehicle is located or the occupant of the premises adjacent to the public right-of-way whereupon such nuisance exists, shall be ordered to remove such vehicle within ten days next following the date of said hearing, or where hardship exists, within 30 days, the same being a reasonable time. It shall further provide that if the person so ordered fails to remove such junked

vehicle within the time specified, the Chief of Police shall 1) file criminal charges against said person so in default in the Municipal Court and 2) cause said vehicle to be removed to a scrapyard, demolisher, or suitable site designated by the city for this purpose.

8. Any resolution or order requiring the removal of a vehicle or parts thereof shall include 1) a description of the vehicle, 2) the vehicle identification number, and 3) the license plate number, if available.

9. Nothing in this Ordinance shall apply to a vehicle or vehicle part:

(1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. maintained in an orderly manner;

b. not a health hazard; and

c. screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(3) In this section:

a. "Antique vehicle" means a passenger car or truck that is at least 25 years old.

b. "Motor vehicle collector" means a person who:

1. owns one or more antique or special interest vehicles; and

2. Acquires, collects, or disposes of an antique or special interest vehicle or part thereof for personal use to restore and preserve an antique or special interest vehicle for historic interest.

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

10. The provisions of this Ordinance shall be administered and enforced by regularly salaried, full-time employees of the City of Terrell Hills, except that any authorized person may remove the nuisance.

11. Junked vehicle or parts thereof may be disposed of by removal to a scrapyard, demolisher, or any suitable site which may be designated by the city.

12. After a junked vehicle has been removed under provisions of this Ordinance, it shall not be reconstructed or made operable. Notice shall be given to the Texas Department of Transportation within five days after the date of removal, identifying the vehicle or part thereof, so that the Department may cancel the certificate of title to such vehicle.

13. The Chief of Police or any person authorized by him to administer the provisions of this Ordinance may enter upon private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance

14. Nothing in this Ordinance shall affect existing ordinances or statutes of the State of Texas that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

15. It shall be unlawful for the owner or occupant of any real property within the City of Terrell Hills to keep or permit the keeping of a junked vehicle or part thereof on such property in violation of this Ordinance.

16. It shall be unlawful for any person to knowingly or intentionally interfere with or attempt to prevent the examination and/or identification of vehicles pursuant to this Ordinance or to intentionally or knowingly interfere with or attempt to prevent the removal of a junked vehicle under terms of this Ordinance. Any violation hereof shall be punishable by a fine not exceeding \$200.

17. It shall be an affirmative defense to prosecution under the provisions of this Ordinance that the notices hereinabove were not given to the defendant prior to the commencement of the criminal prosecution.

18. In any case where the Municipal Court shall find an owner or occupant guilty of keeping a junked vehicle, the Court shall enter an order authorizing the Chief of Police or any police officer to remove or cause the junked vehicle to be removed or disposed of.

19. In adopting this Ordinance, the Council has done so pursuant to the authority granted to it by Section 683.074, Texas Transportation Code, as amended, it being the intention of the Council to implement and put into effect appropriate measures for the abatement and removal of junked vehicles or parts thereof, as public nuisances. In the event that any court should hold that any word, phrase, sentence, or paragraph of this Ordinance is unconstitutional or otherwise invalid, then the Council hereby declares that all remaining portions of the Ordinance shall remain in full force and effect.

20. This Ordinance shall become effective immediately upon its adoption and its publication as provided by law.

(Ord 1111, 7-08-02)

Sec. 13-30, Agreement for Highway Maintenance

SECTION 1. That the certain agreement dated May 12, 1969 between the State of Texas and the City of Terrell Hills for the maintenance, control, supervision and regulation of certain State Highways and/or portions of State Highways located in the City of Terrell Hills be, and the same is,

hereby approved; and that Mayor Robert H. Seal is hereby authorized to execute said agreement on behalf of the City of Terrell Hills and to transmit the same to the State of Texas for appropriate action

SECTION 2. The fact that the work contemplated under the above mentioned agreement is needed, creates an emergency which for the immediate preservation of the public peace, health, safety and general welfare requires that this Ordinance take effect immediately from and after its passage and it is accordingly so ordained.

(Ord. 249, 5-12-69)

Sec. 13-35, No Repairs of Vehicles in Public View

1. As used in this ordinance the following words and phrases shall have the meanings respectively ascribed to them:

(a) Vehicle means every device in, upon and by which any person or property is to be transported upon a highway except devices moved by human power.

(b) Residence District means that area of the city as shown on the official zoning map as "A Residential".

(c) Major Repairs means any maintenance procedure with reference to any vehicle which results in the removal from the vehicle of any material part of the chassis, body or drive train, if any, for a continuous period of 48 hours or more.

2. Upon notice that a vehicle is undergoing major repairs in the public view at any location in the residence district of the city, it shall be duty of the secretary-manager or any police officer to give written notice to either (1) the person making such major repairs or (2) the person having possession of the vehicle of the provisions of this ordinance and to direct the person so notified to cease and desist such major repairs and to either (1) restore to the vehicle all parts removed from it during the maintenance procedure or (2) remove the vehicle from public view, in either event within 24 hours immediately next following receipt of such written notice. In the event no person making such major repairs or in possession of the vehicle can be found at the site of the repairs, the notice required by this ordinance shall be sufficient if affixed to the vehicle where it can be readily found and observed. The person giving such notice shall endorse upon the notice the date and hour that the notice is given and shall sign his name and official capacity.

3. The failure by any person so notified to comply with said notice shall constitute an offense punishable by a fine not exceeding \$200.00 with each day the violation continues being a separate offense.

4. Nothing in this ordinance shall apply to repairs to a vehicle which are conducted in an enclosed garage or other building or which are performed in the rear yard area of a dwelling where the vehicle is screened from public view by a fence, shrubbery or other means.

(Ord. 661, 1-9-84)

Sec. 13-36, Abandoned Vehicles

1. For the purposes of this ordinance an abandoned vehicle means a motor vehicle that is inoperable and more than *five** years old and left unattended on public property for more than 48 hours; or a motor vehicle that has remained illegally on public property for a period of more than 48 hours; or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this City for more than 48 hours.

2. Any abandoned vehicles that shall be found standing or parked in violation of any city ordinance, or any vehicle that may be abandoned or left in any public place, or any wrecked or disabled vehicle that constitutes a traffic hazard shall be immediately removed to and impounded in the police automobile pound provided by the city for such purposes, (vehicles acquired for evidence will be stored in the city owned facility - all other vehicles impounded will be stored in the contract impound facility) by any police officer, or other persons duly authorized and acting under and by authority and direction of any member of the police department, Vehicles may also be impounded by police officers for the following reasons (1) impeding traffic, ie. automobile accident or illegally parked vehicle which impedes the efficient flow of traffic (2) owner's consent (3) stolen vehicle or reasonable cause to believe stolen (4) abandoned or mechanically defective so that it creates a hazard or danger to others using public street (5) DWI driver and no one else available to take vehicle (6) driver under custodial arrest and no other alternatives available other than impoundment to insure protection of vehicle (7) specific forfeiture or seizure statute.

3. Any vehicle so removed and impounded shall be towed to the automobile pound that has been provided for the storage of such vehicles; said vehicle so towed and/or impounded shall be retained and held at such pound until all charges for towing and storage against such vehicle shall have been paid to the duly authorized person in charge of said pound. A storage fee of five dollars (\$5.00) per day each day that a vehicle, impounded for evidence, remains under the control and in the possession of the police department and stored in the city owned impound facility, will be collected by the police department before the impounded vehicle is released. A storage fee per day for each day as specified by contract with the contract impound facility for all impounded vehicles stored in such facility will be charged.

4. The police department after taking into custody a motor vehicle shall notify not later than the 10th day after taking the motor vehicle into custody, by certified mail, return receipt requested, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the

Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), that the vehicle has been taken into custody. The notice shall describe the year, make, model and vehicle identification number of the motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction. If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by registered or certified mail, and shall have the same contents required for a notice by registered or certified mail. The consequences and effect of failure to reclaim an abandoned motor vehicle shall be set forth in a valid notice given pursuant to this section.

5. Impounded motor vehicles shall be released by the police officer in charge of the police automobile pound, after payment is made of any towing or storage charges or fees, only upon receipt of one of the following:

a. Submission of certificate of title or other satisfactory proof that the person applying for the release is the owner of the vehicle.

b. Submission of the certificate of title and of a current power of attorney duly executed by the owner requesting release to the person named therein and presenting same.

c. If any motor vehicle has not been claimed by the owner within fifteen (15) days after it has been impounded, it may be released to the mortgagee holding the first lien shown on the certificate of title upon the following conditions:

(1) Submission by such mortgagee of his records showing that the owner (mortgagor) is then delinquent in payments on the said lien not less than sixty (60) days,

(2) Submission by said mortgagee of an agreement duly sworn to, stating the delinquency and agreeing to indemnify the city in the original amount of said lien against all claims that may arise out of such release, such indemnity agreement to be executed by said mortgagee and a surety company authorized to do business in Texas. Such agreement shall be in form approved by the City Attorney.

Nothing herein shall prevent the release of any motor vehicle by any person upon the service of an order or judgment directing such release by a court of competent jurisdiction.

6. If an abandoned motor vehicle has not been reclaimed as provided by this ordinance, the police department shall sell the abandoned motor vehicle at a public auction. Proper notice of the public auction shall be given one time in a newspaper of general circulation. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notices and publications costs incurred. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs.

7. To the extent the provisions herein are in conflict with the provisions of Ordinance 183 the provisions herein will govern.

(Ord. 628, 5-10-82)

(*amended by ord. 804, 2-12-90)

Sec. 13-37, Vehicles and Other Objects on Public Right-of-Way;

1. It shall be unlawful for any person to (a) park any motor vehicle in any public street or public place for a continuous period of more than forty-eight hours; or (b) park the same in any such place at any time for the purpose of either displaying it for sale or displaying advertising signs or posters affixed to it or to repair it (except repairs necessitated by an emergency).

2. It shall further be unlawful for any person to park or leave standing in any public street or public place any trailer, semi-trailer or house trailer not attached to a tractor or towing vehicle.

3. The fact that any such motor vehicle, trailer, semi-trailer or house trailer is found parked or left standing in any public street or public place in the City in violation of the provisions of this ordinance shall be prima facie evidence that the owner thereof was the person who parked or left the same so standing.

*4. It shall further be unlawful for any person to place or leave in any public street or alley any object or substance, which, because of its size or nature, constitutes a hazard to others using such thoroughfare, or which substantially interferes with the free passage of such street or alley.

5. Any person convicted of violating the provisions hereof shall be fined not exceeding two hundred dollars.

(Ord. 157, 9-24-65)

*(Para.4 amended by Ord1188, 8-08-05)