

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 8, 2002**

Mayor Joel D. Williams declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller led the opening devotion. Mayor Joel D. Williams then led the pledge of allegiance. Singing of the National Anthem was by Mrs. Lucille Hart.

Councilmembers present were: Mayor Joel D. Williams, Councilmembers V. L. Wiley, Jr., Jimmy Schulz, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian.

Councilmembers absent was: None.

Staff members present were: City Manager, Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Police Chief Tim Guin, Building Official Ronnie Bollom, Interim EMS Director John Kowalik and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, Paul Daly KULP, Steve Yarbrough with Reliant Energy/Entex, David Schroeder with WEDCo, Sandy Sanders, Lynda Nichols, Ron Dean, Melody Peacock, Raymond Fisher, and Gretchen White.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. No comments were given. No action was taken.

The fifth item on the agenda was to review and consider reading of the minutes from the Regular Meetings held March 11, 2002 and March 25, 2002. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the minutes from the regular meetings held March 11, 2002 and March 25, 2002. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance declaring the unopposed candidate for Councilmember District No. 4 as elected to office; Providing that the General Election held on May 4, 2002 for Councilmember District No. 4 shall be canceled; Providing that this ordinance shall be cumulative of all ordinances; Providing for severability; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith and providing an effective date. Mayor Joel D. Williams publicly thanked Don Mueller for serving on the City Council and serving as a model for servicing as a Councilmember. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2002-06, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2002-06**

AN ORDINANCE DECLARING THE UNOPPOSED CANDIDATE FOR COUNCILMEMBER DISTRICT NO. 4 AS ELECTED TO OFFICE; PROVIDING THAT THE GENERAL ELECTION HELD ON MAY 4, 2002 FOR COUNCILMEMBER DISTRICT NO. 4 SHALL BE CANCELED; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Wharton, Texas is a home rule municipality located in Wharton County, created in accordance with the provisions of Title 1 Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, pursuant to the City of Wharton, Ordinance No. 2002-02, passed and approved February 11, 2002, a general election was ordered to be held on May 4, 2002 for the purpose of electing Councilmember District No. 4 to serve on the City Council in the City of Wharton; and

WHEREAS, pursuant to Section 2.052, Texas Election Code, the deadline for filing for a place on the City 's General Election was expired on March 25, 2002, at 5:00 P.M.; and

WHEREAS, the Deputy City Secretary, in accordance with Section 2.052 Texas Election Code, has certified to the City Council in writing that Don Mueller is unopposed for election to the office of Councilmember District No. 4; and

WHEREAS, the City Council hereby finds and determines that the candidate for District No. 4 whose name is to appear on the ballot in said election is unopposed, and there are no declared write-ins.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, THAT:

SECTION 1.

In accordance with Section 2.053(a) Texas Election Code, the following candidate, who is unopposed in the May 4, 2002, general election, is hereby declared duly elected to the respective offices.

Councilmember District No. 4 – Don Mueller

SECTION 2.

Pursuant to Section 2.053 (b) Texas Election Code, the General Election for Councilmember District No. 4 heretofore called and ordered by the City of Wharton by Ordinance No. 2002-02 for the 4^h day of May 2002, shall not be held and is hereby canceled.

SECTION 3.

The Deputy City Secretary is hereby directed to post a copy of this Ordinance at the designated polling place on election day, same being May 4, 2002.

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances of the City of Wharton, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5.

It is hereby declared to the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this **8th day of April 2002.**

CITY OF WHARTON, TEXAS

By: _____
Joel D. Williams
Mayor

ATTEST:

Joyce Vasut
City Secretary

APPROVED AS:

Paul Webb
City Attorney

Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the recommended change by the Public Utility Commission to the Maximum Access Line Rates for the use of the public right of way by Certificated Telecommunications Carriers (CTP) in the City of Wharton, Texas. City Manager Andres Garza, Jr. presented the memorandum from Finance Director Joyce Vasut and himself regarding an increase in the Telecommunications Right-of-Way Access Line Rates, which the Public Utility Commission (PUC) was required to adjust the maximum access line rates by an amount equal to one-half the annual change in the Consumer Price Index (CPI) per year and had determined that the annual change in the CPI for 2001 was 1.15%. He stated that the City of Wharton had the opportunity to adjust the maximum access line rates as indicated for residential to \$0.91, non-residential to \$2.90, and point to point to \$4.29. He said the City had to respond to the PUC by April 15, 2002, and the new rates would be implemented no later than July 1, 2002. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2002-16, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002-16**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE RECOMMENDED CHANGE BY THE PUBLIC UTILITY COMMISSION TO THE MAXIMUM ACCESS LINE RATES FOR THE USE OF THE PUBLIC RIGHT-OF-WAY BY CERTIFICATED TELECOMMUNICATIONS CARRIERS (CTP) IN THE CITY OF WHARTON, TEXAS.

WHEREAS, the City of Wharton is compensated for the use of the public right-of-way by Certificated Telecommunications Carriers (CTP) using access line rates; and

WHEREAS, these rates are monthly fees paid by residential, business, and point to point customers to CTP's, who in turn compensate the City; and

WHEREAS, the PUC is required to adjust the maximum access line rates by an amount equal to one-half the annual change in the Customer Price Index (CPI) per year; and

WHEREAS, the PUC has determined that one-half the annual change in the CPI for 2001 is 1.15%; and

WHEREAS, the maximum access line rate for the City of Wharton would change as follows:

Residential	\$0.91
Non Residential	\$2.90
Point to Point	\$4.29

WHEREAS, the City Council of the City of Wharton wishes to establish the afore-mentioned maximum access line rates for the City of Wharton.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the City Council of the City of Wharton hereby establishes the afore-mentioned maximum access line rates as recommended by the Public Utility Commission for compensation for the use of the public right-of-way by Certificated Telecommunications Carriers (CTP) in the City of Wharton, Texas.

Section II. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 8th day of April 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
Deputy City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider filing of currently effective Residential and Commercial Rate Schedules of Reliant Energy Entex for the City of Wharton, Texas. City Manager Andres Garza, Jr. presented a copy of a letter received from Mr. Steve Yarbough of Reliant Energy Entex informing the City that the rates for natural gas service would increase on May 1, 2002. He also presented the Reliant Energy Rate Schedules from Mr. Leslie Krancher, Manager. City Manager Garza stated that the City Council did not have to approve the rates but rather enter them into the public record. After some discussion, Councilmember Bryce D. Kocian made a motion to enter into public record the Residential and Commercial Rate Schedules of Reliant Energy Entex for the City of Wharton, Texas effective May 1, 2002. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-55 School Crossings, Article IV Parking Section 82-135 Two Hour Parking Zones, and Section 82-136 Ten Minute Parking Zones; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability; and setting an effective date. City Manager Andres Garza, Jr. presented letters received from Thomas Miller, Ron Dean, Melinda Zepeda, and Kellie Brown to the City Council. He stated that a proposed amendment was previously discussed granting of defense to prosecution for people who have their primary residence on the affected streets. Mr. Garza stated that parking during festivals could also be considered. Mayor Joel D. Williams stated that activities on the square were increasing and the need for available space was needed. Mr. Ron Dean addressed the City Council and stated that the downtown merchants did not want to do anything to antagonize anyone, but would like the signs removed or have each merchant place a cover over the existing sign between the hours

of 11:00 a.m. until 3:00 p.m. with one side of the cover stating Welcome to Wharton, and other side Thank you for Shopping at Wharton. Police Chief Tim Guin addressed the City Council regarding concerns of the chalk on the tires. Mr. Guin stated that after two turns of the wheel and the chalk would be gone. After some discussion, Mayor Joel D. Williams recommended the ordinance to the City Council Streets & Drainage Committee for their consideration. No action was taken.

Councilmember Jimmy Schulz arrived at 7:13 p.m.

The tenth item on the agenda was to review and consider an ordinance amending the City of Wharton, Code of Ordinances, Chapter 14 Animals and Fowl; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; containing a savings clause; providing for severability; and setting an effective date. City Manager Andres Garza, Jr. presented the draft copy of the Animal Control Ordinance showing suggested amendments previously approved. Mayor Joel D. Williams stated the ordinance addressed wild, farm and dangerous animals and then he publicly thanked the City Staff and stated he thought the Ordinance was fair for all citizens. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2002-07, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2002-07**

AN ORDINANCE AMENDING THE CITY OF WHARTON, CODE OF ORDINANCES, CHAPTER 14 ANIMALS AND FOWL; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

Chapter 14 Animals and Fowl is amended to read as follows:

Article I. In General

Sec. 14-1. Definitions.

Sec. 14-2. Bird sanctuary.

Sec. 14-3. Trapping or shooting birds and wild fowl; nuisance birds.

Sec. 14-4. Supervision and enforcement; supervision of animal shelter.

Sec. 14.5. Compliance Date.

Sec. 14-6. Hindering enforcement.

Sec. 14-7. Sanitary condition of enclosures.

Sec. 14-8. Animal Ownership.

Sec. 14-9. Keeping swine.

Sec. 14-10. Exhibiting livestock for sale.

Sec. 14-11. Staking livestock.

Sec. 14-12. Running at large.

Sec. 14-13. Guard dogs.

Sec. 14-14. Nuisance animals.

Sec. 14-15. Injured animals.

Sec. 14-16. Fighting animals.

Sec. 14-17. Display or sale of dyed or immature animals.

Article II. Impoundment

Sec. 14-46. Animals in violation.

Sec. 14-47. Animal shelter.

Sec. 14-48. Removal of animal from shelter without consent.

Sec. 14-49. Disposition of licensed dogs and cats.

Sec. 14-50. Disposition of animal held upon complaint.

Sec. 14-51. Fees.

Sec. 14-52. Requirements for release.

Sec. 14-53. Adoption requirements.

Sec. 14-54. Limitation on number of dogs and cats.

Article III. Rabies Control

Sec. 14-76. Harboring unvaccinated dog or cat.

Sec. 14-77. Vaccination of dogs and cats required.

Sec. 14-78. Certificate of vaccination.

Sec. 14-79. Tags.

Sec. 14-80. Proof of vaccination.

Sec. 14-81. Duplicate tags.

Sec. 14-82. Reports of rabies.

Sec. 14-83. Other animal bites.

Sec. 14-84. Confinement of dogs and cats.

Sec. 14-85. Removal of dogs and cats from confinement.

Sec. 14-86. Reports of suspected rabies.

Sec. 14-87. Killing animals with rabies or suspected of rabies.

Secs. 14-88--14-110. Reserved.

Article IV. Licensing

Sec. 14-111. License required, application, term, exemptions, fees, tags, revocation.

Article V. Kennels

Sec. 14-200. Definition.

Sec. 14-201. Permits.

Sec. 14-202. Kennel Plans

Sec. 14-203. Inspection

Sec. 14-204. Time of Inspection.

Sec. 14-205. Permit Revocation

Sec. 14-206. Distance from Residences.

Article VI. Keeping of Wild Animals

Sec. 14-207. Wild animal defined.

Sec. 14-208. Possession prohibited.

Sec. 14-209. Vaccination.

Sec. 14-210. Penalty.

Sec. 14-211. Temporary permit; registration for productions.

Sec. 14-212. Impoundment.

Sec. 14-213. Special permits.

Sec. 14-214. Regulations promulgated by the Animal Control Officer.

VII. Prohibited and Exotic Animals

Sec. 14-215. Definition of prohibited animals.

Sec. 14-216. Ownership of prohibited animals.

Sec. 14-217. Impoundment of prohibited animals.

Sec. 14-218. Maintenance and disposition of prohibited animals.

Sec. 14-219. Definition of exotic animals.

Sec. 14-220. Application of other laws.

Sec. 14-221. Primary enclosures.

Sec. 14-222. Transportation of exotic animals.

Sec. 14-223. Distance requirements.

Sec. 14-224. Impoundment of exotic animals.

Sec. 14-225. Maintenance and disposition of exotic animal.

Article VIII. Dangerous Animals

Sec. 14-226. Knowledge of dangerous animals.

Sec. 14-227. Reporting of dangerous animals.

Sec. 14-228. Notification and appeal.

Sec. 14-229. Requirements for owners of dangerous animals.

Sec. 14-230. Registration.

Sec. 14-231. Owner notification of attacks.

Sec. 14-232. Offenses.

Sec. 14-233. Defenses.

Sec. 14-234. Destruction of animal.

Article IX. Miscellaneous.

Sec. 14-235. Disposal of dead animals.

Article X. Administrative Hearings and Inquests.

Sec. 14-236. General provisions.

Sec. 14-237. Administrative hearing for license revocation.

Sec. 14-238. Administrative hearing - ownership of animal with revoked license.

Sec. 14-239. Administrative hearing - prohibited animal.

Sec. 14-240. Appeal to Municipal Court.

Article XI. Penalty.

Sec. 14-241. Penalty.

Sec. 14-242. Culpability.

Article XII. Savings Clause.

Article XIII. Severability.

Article XIV. Effective Date.

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

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

Animal Control Authority means the City of Wharton animal control office with regulatory authority over the area within the City limits in which animals are kept.

Animal Control Officer means the person(s) appointed by the chief of police to administer the animal control office.

Cat means a domestic feline of either sex, including one neutered or sterilized.

Chief of Police means the City of Wharton's highest-ranking peace officer appointed by the City Manager to enforce the laws within the City's jurisdiction.

City Facility means the permanent or temporary City-owned and operated animal shelter or vehicle utilized by the City to transport animals.

City Veterinarian means the independent contractor, professional consultant appointed by the City Council to serve a two (2) year term, who is licensed to practice veterinary medicine in the State of Texas, and provides the Chief of Police or his designee advisory assistance in developing, implementing and revising protocols for the humane treatment, management and control of animals by the City within the City limits. The City Veterinarian shall be generally knowledgeable about laws, regulations, and practices governing the safe management of animals.

Dog means a domestic canine of either sex, including one neutered or sterilized.

Domestic animal includes all species of animals commonly and universally accepted as being domesticated, including cows, horses, mules, jacks, jennets, goats, sheep, hogs, pigs, swine, or Vietnamese pot-bellied pigs or other livestock. The term includes the male and young of such species.

Fowl includes but is not limited to chickens, turkeys, guineas, ducks, and pigeons.

Handicapped person means a person who has a mental or physical handicap, including mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, being physically challenged or any other health impairment, which requires special ambulatory devices or services.

Harboring means the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care.

Owner means any person who has right of property in an animal or who harbors an animal or allows an animal to remain about his premises.

Pet animal includes all dogs, cats, rabbits, rodents, birds, reptiles and any other species of animal which is sold or retained as a household pet, but shall not include skunks, non-human primates and any other species of wild, exotic or carnivorous animal that may be further restricted in this chapter.

Rabies vaccination means the vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the Texas Department of Health and administered by a veterinarian licensed by the state.

Running at large or to run at large means:

- (1) Any dog, cat or other domestic animal shall be termed "running at large" if it is not controlled by a leash, or is not within the confines of a house, building or fence, or is not otherwise under the immediate restraint or immediate control of a person capable of controlling the dog, cat or other domestic animal, on or off the premises of the owner; provided, however this section shall not apply to any dog or other animal that is assisting a law enforcement officer in the performance of his or her duties.
- (2) Any domestic fowl that is off the premises of its owner, not within the confines of a fence or one that is otherwise intruding upon the property of another.

Serious bodily injury means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Stray animal means any animal for which there is no identifiable owner or harborer.

Support dog means a dog that is specially trained or equipped to help a handicapped person and that:

- (1) Is used by a handicapped person who has satisfactorily completed a specific course of training in the use of the dog; and
- (2) Has been trained by an organization generally recognized by agencies involved in the rehabilitation of the handicapped as reputable and competent to provide dogs with training of this type.

Wild animal includes all species of animals which exist in a natural unconfined state and are usually not domesticated.

Sec. 14-2. Bird sanctuary.

The entire area embraced within the City is hereby designated as a bird sanctuary.

State law reference(s)--Treatment of live birds, V.T.C.A., Health and Safety Code § 821.003; birds generally, V.T.C.A., Parks and Wildlife Code § 64.001 et seq.

Sec. 14-3. Trapping or shooting birds and wild fowl; nuisance birds.

(a) It shall be unlawful for any person to trap, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob any bird nest or wild fowl nest.

(b) If European starlings, English sparrows, grackles, ravens, red-winged blackbirds, cowbirds, feral rock doves (*Columba livia*) or crows are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property in the opinion of the Chief of Police or his designee, the Chief of Police or his designee shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society or any of such clubs as are found to exist in the City, after having given at least three days' actual notice of the time and place of such meeting to the representatives of such clubs.

(c) If, as a result of such meeting, no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the Chief of Police or his designee.

Sec. 14-4. Supervision and enforcement; supervision of animal shelter.

The Chief of Police or his designee shall supervise the administration and enforcement of this chapter and shall supervise the operation of the City animal shelter.

Sec. 14-5. Compliance Date.

All persons so affected by this chapter and the articles contained therein shall have six (6) months from date of passage by the City of Wharton City Council enabling Ordinance to meet all compliance requirements of this chapter and these articles. Prior to the passage of the six (6) month grace period, any existing Wharton laws and regulations affecting animal ownership shall remain applicable.

Sec. 14-6. Hindering enforcement.

It shall be unlawful for any person to interfere with, molest, hinder or prevent the Chief of Police, Animal Control Officer or his authorized representatives in the discharge of their duties as prescribed in this article. For the purposes of this article, pursuant to the issuance of any license under this article, or the issuance of an administrative search warrant by a court of competent jurisdiction, the Chief of Police, Animal Control Officer and/or City Veterinarian shall be permitted to enter and inspect any premises where a domestic animal and/or fowl are kept or harbored, during the daylight hours of any day. The refusal to permit such entry to inspection shall be a violation of this article.

Sec. 14-7. Space and fence requirements and Sanitary condition of enclosures.

(a) No person shall maintain livestock or fowl within the City, unless the following space and fence requirements are met.

(1) *Horses, Cattle, Sheep and Goats.* There shall be a minimum space of 8,000 square feet for each horse, cow, sheep or goat kept within the City limits. Any building, barn or shed used for protection of the animal against the elements must be located on this plot. An additional space of 8,000 square feet must be provided for each additional horse, cow, sheep or goat kept on the premises. No part of the enclosure for such animal shall be located within 100 feet of any hotel, motel, apartment house or other human lodging place or of any residence, other than the animal owner's residence.

(b) *Fowl.* No roosters or chickens, except laying hens and pullets, may be kept or maintained in this City. No person shall keep, harbor, possess or allow to remain on any premises under his control within the corporate limits of the City more than 25 grown fowl. Any property maintained in the City limits for keeping, maintaining or possessing fowl must be large enough to provide five square feet per fowl. A chicken house or house for other fowl must be located within this area. Chicken wire shall be used as the fence material for chickens and other fowl. Such enclosure shall not be located within 100 feet from any hotel, motel, apartment house or other lodging place or residence, other than the animal owner's residence.

(c) *Rabbits.* No person shall keep, harbor, or possess or allow to remain upon his premises or upon premises under his control in the corporate limits of this City more than six grown rabbits or more than 18 fryer rabbits. All rabbit hutches or enclosures must be kept clean in a sanitary manner. There shall be a minimum space of 5 square feet per rabbit. No rabbit hutches shall be located within 100 feet from any hotel, motel, apartment house or other lodging place or any residence, other than the rabbit owner's residence.

(d) Any area wherein any animals or fowl are penned, housed, caged, cooped, stabled or otherwise contained shall at all times be kept in a sanitary condition so that no foul or offensive odors shall emanate therefrom.

(e) Upon the receipt of a complaint that any area is being maintained in violation of this section or upon his own volition, the Animal Control Officer may make an investigation of the conditions complained of and, if such investigation shows, after consultation with the City Veterinarian, that an unsanitary condition exists, the Animal Control Officer shall so notify the person owning the premises or his agent in charge of the premises. Any person failing to remedy the existing condition within the time prescribed in such notice shall be guilty of a misdemeanor.

(f) **Fowl and Livestock Exceptions for 4-H and FFA Projects:** When kept by a participant in an agricultural program under the supervision of a vocational instructor or the county agricultural agent, for exhibition and sale at stock shows and fairs, the following shall be met:

- (1) **Steer, horses, and dairy heifers.** There shall be a minimum of 1/2 acre for keeping one or two head of livestock, along with a covered area consisting of 100 square feet per animal. No part of the enclosure for such animals shall be located within one hundred (100) feet of any residence, other than that of the participant.

- (2) **Sheep and goats.** A maximum of two (2) animals per participant. A covered area consisting of thirty (30) square feet shall be maintained for each animal. In addition, an open area of 150 square feet may be maintained, however an open area is not required. No part of the enclosure shall be located within twenty-five (25) feet, for up to one (1) animal, and fifty (50) feet, for two (2) animals, of any residence, other than that of the participant.
- (3) **Roasters.** An enclosure consisting of two (2) square feet per roaster shall be maintained. Such enclosure shall not be located within twenty-five (25) feet of any residence, other than that of the participant. No more than twenty-five (25) adult birds may be raised in such enclosure.
- (4) **Broilers.** An enclosure consisting of one (1) square foot per broiler shall be maintained. Such enclosure shall not be located within twenty-five (25) feet of any residence, other than that of the participant. No more than thirty (30) adult birds may be raised in such enclosure.
- (5) **Turkeys.** An enclosure consisting of five (5) square feet per turkey shall be maintained. Such enclosure shall not be located within twenty-five feet of any residence, other than that of the participant. No more than twenty-five adult birds may be raised in such enclosure.
- (6) **Rabbits.** An enclosure consisting of four (4) square feet per adult rabbit and her young shall be maintained. Such enclosure shall not be located within twenty-five (25) feet of any residence, other than that of the participant.
- (7) **Additional General Requirements.** In addition to the specific species requirements addressed above, the following conditions shall also be met:
 - (a) **Number of Projects.** Each participant may raise as many project animals as space allows on the property. Each project's spacing requirements and minimum distance from neighboring residences is independent of other projects on site and is not cumulative.
 - (b) **Construction Requirements.** The outer confining restraint must be constructed of an approved material that will allow airflow and be capable of confining the livestock or fowl.
 - (c) **Sanitation.** All barns, sheds and enclosures shall be maintained in a clean, sanitary manner and no accumulations of animal excreta or filth shall be permissible. All poultry and rabbit houses and yards shall be kept in a clean, sanitary manner.
 - (d) **Notification.** The Agricultural Supervisor of Wharton High School or any successor to that position and the County Extension Agent will be required by the Chief of Police or his designee to provide a list of 4H or FFA participants within the City limits, their locations, the number

of project animals, and project commencement and termination date to the Chief of Police or his designee

Sec. 14-8. Ownership.

The only persons who may place animals on private property are the actual owners and their relatives in permanent residence at the real property according to the real property records as reflected on the real property records of the County of Wharton, or a person possessing a written leasehold interest in the real property where the animals are placed. No person may otherwise rent or give any other person a license right to use the owner's property to keep for any period of time any animal.

Sec. 14-9. Keeping swine.

(a) It shall be unlawful for any person owning, leasing or controlling any premises in the City to keep, or cause to be kept, or permit to be kept thereon, any live hogs, pigs or swine of any description, including but not limited to Vietnamese pot-bellied pigs, except as listed in sub-section (b) of this sub-chapter.

(b) The keeping of swine shall be permitted only to certain public school facilities for the limited purpose of fostering a 4H or FFA program, and any enclosure shall not be located within one hundred (100) feet of any hotel, motel, apartment house, or other human lodging place or of any residence, except for the school facility.

Sec. 14-10. Exhibiting livestock for sale.

It shall be unlawful for any person to keep, herd or assemble at any place within the City any horses, mules, cows or other livestock for the purpose of sale or for exhibition for the purpose of sale.

Sec. 14-11. Staking livestock.

It shall be unlawful for any person to cause livestock or horses to be temporarily or permanently tethered to a stake or a similar fixture on unpenned or unfenced lots within the City.

Sec. 14-12. Running at large.

(a) No owner or keeper of any dog, cat, domestic animal, other animal or domestic fowl shall permit or allow such dog, cat, domestic animal, other animal or domestic fowl to run at large within the City limits.

(b) Certain dogs prohibited from running at large; criminal penalty.

(1) The owner, keeper, or person in control of a dog that the owner, keeper, or person knows is accustomed to run, disturb, or kill other dogs, goats, sheep, or poultry may not permit that dog to run at large.

(2) A person who violates this section commits an offense. An offense under this subsection is punishable by a fine of not more than \$100.

(3) Each time a dog of this nature runs at large in violation of this section constitutes a separate offense.

Sec. 14-13. Guard dogs.

It shall be unlawful to place or maintain any dog, which has been specifically trained to attack, in a public or private area for the protection of persons or property, unless the dog is physically confined to a specific portion of the private area or is under the complete and absolute control of its owner. The specific private area on the private premises in which a guard dog is confined must be conspicuously defined and posted with warning signs bearing letters not less than two inches high.

Sec. 14-14. Nuisance animals.

It shall be unlawful for any owner to harbor any dog, cat or other pet animal which by any activity shall disturb the peace, comfort or property of the inhabitants of the neighborhood possessing normal and average sensitivities, and such disturbance is hereby declared to be a public nuisance.

Sec. 14-15. Injured animals.

Animals injured on public property may be impounded at the City facility and given minimal basic veterinary medical treatment pending notification of the animal's owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of any treatment and/or impoundment.

Sec. 14-16. Fighting animals.

It shall be unlawful for any person to cause, instigate or encourage any animal to fight with another of its own species, or with another of a different species. It shall be unlawful for any person to train or keep any animal for the purpose of fighting. It shall be unlawful for any person to maintain a place where any animal is permitted to fight for exhibition, wager, or for sport.

Sec. 14-17. Display or sale of dyed or immature animals.

It is hereby prohibited and it shall be unlawful for any person to possess, display, sell, barter or give away dyed, colored or in any way artificially treated baby chicks, ducklings, fowl, rabbits or any animals as pets, playthings, novelties, gifts or for any other purpose. This section shall not be construed to prohibit their display by hatcheries, stores, animal owners, dealers or persons engaged in the business of selling such immature animals to be raised for food, but no such hatcheries, stores, animal owners, dealers or persons shall sell or give away baby chicks, ducklings or any other immature domestic fowl as pets, playthings, novelties or gifts.

ARTICLE II. IMPOUNDMENT

Sec. 14-46. Animals in violation.

Animals owned or harbored in violation of this chapter or any other City ordinance, or law of the State shall be taken into custody by the Chief of Police or his designee and impounded. Stray animals shall be similarly impounded.

Sec. 14-47. Animal shelter.

A suitable City animal shelter shall be provided for the purpose of temporarily boarding and caring for any animal impounded under this chapter.

Sec. 14-48. Removal of animal from shelter without consent.

It shall be unlawful for any person to remove any impounded animal from the City animal shelter without the consent of the Chief of Police or his designee.

Sec. 14-49. Disposition of licensed dogs and cats.

As soon as practicable and after impoundment, notice of impoundment shall be posted in a conspicuous place at the City Hall for three days. If the owner of the impounded dog or cat is known, reasonably prompt notice shall be given to him. Any impounded dog or cat may be redeemed by the owner upon payment of the City impoundment fee, care and feeding charges and such other costs as set by the City Council. If such animal is not redeemed within three days, it shall be considered abandoned and may be placed for adoption subject to payment of the City impoundment fee, care and feeding charges, any veterinary charges and such other costs as set by the City Council; or the Animal Control Officer may humanely euthanize the animal.

Sec. 14-50. Disposition of animal held upon complaint.

If a complaint has been filed in the Municipal Court against the owner of an impounded animal for a violation of this chapter, the animal shall not be released except on the order of the Court, which may also direct the owner to pay any penalties for violation of this chapter in addition to all impoundment fees. The Court may, upon making a finding that such animal is vicious or that it represents a clear and present danger to Wharton citizens or other animals in the community, order the animal to be euthanized in a humane manner. Surrender of an animal by the owner thereof to the Chief of Police or his designee does not relieve or render the owner immune from the decision of the Court, nor to the fees and fines which may result from a violation of this chapter.

Sec. 14-51. Fees.

The impoundment fee shall be, an initial pick-up fee of \$15.00 and a \$5.00 daily boarding fee and thereafter a fee of \$5.00 for each day or part thereof that the animal is impounded. A second pick-up from the same premises or attributable to the same owner shall be \$30.00 and a

\$5.00 daily boarding fee and thereafter a fee of \$5.00 for each day or part thereof that the animal is impounded. The third and any subsequent pick-up fees from the same

premises or attributable to the same owner shall be \$60.00 and a \$5.00 daily boarding fee and thereafter a fee of \$5.00 for each day or part thereof that the animal is impounded. Adoption fees shall be \$16.00 per dog and \$5.00 per cat. The initial pick-up fee and daily boarding fees shall be waived in lieu of payment of an adoption fee by somebody other than the animal's owner.

Sec. 14-52. Requirements for release.

(a) The owner of any dog or cat impounded under this section shall be allowed to take such dog or cat from the place where impounded upon the following conditions:

(1) Payment of any impoundment and daily boarding fees as established by City Council action and set forth in this code for each day or fractional part thereof which such dog or cat has been impounded.

(2) If the dog or cat is not wearing a collar with a valid rabies and license tags attached, the owner must present a veterinarian certificate showing that the dog or cat has been vaccinated within 12 months from that day, or have the dog or cat vaccinated prior to its release from impoundment and must further produce or secure a valid license tag for such dog or cat.

(3) Provide the dog or cat with a collar or harness to which the license and rabies tags are attached.

Sec. 14-53. Adoption requirements

(a) An unclaimed dog or cat shall be released from the City shelter for adoption under this section upon the following conditions.

(1) Payment of adoption and licensing fees as prescribed in Sections 14-51, and 14-111.

(2) The dog or cat must receive a rabies vaccination from a veterinarian licensed by the State Board of Veterinary Medical Examiners, prior to release.

(3) No dog or cat may be released unless the dog or cat has been sterilized (spayed or neutered), or the new owner has signed an agreement to have the animal sterilized (spayed or neutered).

Sec. 14-54. Limitation on number of dogs and cats.

(a) It shall be unlawful for any person or combination of persons to keep, harbor, possess, maintain, or allow to be kept, harbored, possessed, or maintained within the City of Wharton more than four dogs or four cats, or a combination of more than four of these animals per

residential premises, which animals are over four months old, upon or within any premises owned, occupied, or under the control of such person or persons.

(b) It shall be unlawful for any person or combination of persons to keep, harbor, possess, maintain, or allow to be kept, harbored, possessed, or maintained, more than four dogs or four cats or a combination of more than four of these animals per residence, which animals are over four months old, upon any premises or within any apartment of a multiple dwelling structure within the City of Wharton.

(c) The provision of this section limiting the number of animals shall not apply to the following:

veterinary hospitals or clinics;
pet shops;
kennels; and
licensed or regulated animal shelters.

(d) Any owner of more than four animals as defined in this section shall be considered to be unlawfully operating a kennel.

Secs. 14-55 -- 14-75. Reserved.

ARTICLE III. RABIES CONTROL

Sec. 14-76. Harboring unvaccinated cat or dog.

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided in this article, or which cannot be identified as having a current vaccination certificate.

Sec. 14-77. Vaccination of dogs and cats required.

Every owner of a dog or cat four months of age or older shall have such animal vaccinated against rabies by a licensed veterinarian. All dogs or cats vaccinated at four months of age or older shall be re-vaccinated at one year of age and annually thereafter. Any person moving into the City from a location outside of the City shall comply with this article within 30 days after having moved into the City. If a dog or cat has inflicted a bite on any person or another animal within the previous ten days, the owner of the dog or cat shall report such fact to the Chief of Police or his designee and no rabies vaccine shall be administered until after the ten-day observation period.

Sec. 14-78. Certificate of vaccination.

Upon vaccination of a dog or cat, a veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate. The private veterinarian shall retain a duplicate copy. Such certificate shall contain the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat.
- (2) The date of vaccination.
- (3) The type of rabies vaccine used.
- (4) The year and number of the rabies tag.
- (5) The breed, age, color, weight and sex of the vaccinated dog or cat.

Sec. 14-79. Tags.

Concurrent with the issuance and delivery of the certificate of vaccination referred to in Section 14-78, the owner of the dog shall cause to be attached to the collar or harness of the vaccinated dog a metal tag which conforms to the veterinary uniform code of tags.

Sec. 14-80. Proof of vaccination.

It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand by any person charged with the enforcement of this chapter.

Sec. 14-81. Duplicate tags.

If the original tag provided in Section 14-79 is lost or destroyed, the owner of the dog shall obtain a duplicate tag within ten (10) days of discovering such loss.

Sec. 14-82. Reports of rabies.

(a) A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the Chief of Police or his designee. The report must include:

- (1) The name and address of the victim and of the animal's owner, if known; and
- (2) Any other information that may help in locating the victim or animal.

The Chief of Police or his designee shall investigate a report filed under this subsection.

(b) Every physician or other medical practitioner who treats a person for such bites shall within 12 hours report such treatment to the Chief of Police or his designee, giving the name,

age, sex and precise location of the bitten person and such other information as the Chief of Police or his designee may require.

(c) Human-received bites from rodents, rabbits, birds and reptiles are excluded from the reporting requirements of this section.

Sec. 14-83. Other animal bites.

Procedures concerning bites from other animals shall be discussed with the City Veterinarian, Animal Control Officer, a City health officer or the City police department for proper disposition. Any wild animal which has bitten a person should be caught and killed and the brain immediately submitted to a qualified laboratory for rabies examination. Rodents, rabbits, birds and reptiles are not considered to be transmitters of the rabies virus and should not be submitted for laboratory examination for rabies.

Sec. 14-84. Confinement of dogs and cats.

(a) Any dog or cat, which has bitten a person, shall be observed for a period of ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the State Department of Health or other responsible agency. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment in a local, private veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. Stray dogs or cats whose owners cannot be located shall be confined by the City Veterinarian at the initial expense of the City. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall, on demand, produce the dog or cat for impoundment, as prescribed in this article. Refusal to produce the dog or cat constitutes a separate and individual violation.

(b) The impoundment of dogs and cats that have inflicted bites on humans shall be for a period of ten (10) days for observation and shall not be terminated until consent from the private or City Veterinarian is secured.

Sec. 14-85. Removal of dogs and cats from confinement.

It shall be unlawful for any person to remove from any public or private place of confinement any dog or cat which has been confined as authorized under this article, without the consent of the Texas Department of Health, or private or City Veterinarian.

Sec. 14-86. Reports of suspected rabies.

Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the City police department or the Animal Control Officer or to the City Veterinarian, stating precisely where such animal may be found. If a known or suspected rabid animal bites or attacks a domestic animal, such incident shall also be reported as required in this section.

Sec. 14-87. Killing animals with rabies or suspected of rabies.

It is hereby made the duty of the chief of police and his full-time salaried officers, or the Animal Control Officer, to kill all animals at large when the animals are or appear to be affected with rabies, provided that the animal suspected of rabies shall be killed in such a manner as not to damage the brain.

Secs. 14-88--14-110. Reserved.

ARTICLE IV. LICENSING

Sec. 14-111. License required, application, term, exemptions, fees, tags, revocation.

(a) *Required.* Any person owning, keeping, harboring or having custody of any animal over four months of age within this City must obtain a license as provided in this section. This subsection will not apply to the keeping of small caged birds or aquatic and amphibian animals solely as pets.

(b) *Application.* A written application for a license, containing the name and address of the applicant, a description of the animal, including its sex, weight, breed, color and name, the appropriate fee and a rabies certificate issued by a licensed veterinarian or anti-rabies clinic shall be submitted to the City Secretary within ten days after the date of issuance of the rabies certificate.

(c) *Term.* Licenses for the keeping of dogs and cats shall remain in effect for a period of one year, unless revoked before the expiration of this period.

(d) *Time limits for obtaining license.* An application for a license must be made within 30 days after obtaining a dog or cat over four months of age, except that this subsection will not apply to a nonresident keeping a dog or cat within the City for a period of time not to exceed 60 days.

(e) *Exemptions.* Support dogs and governmental police dogs shall be exempt from the fees of this section.

(f) *Issuance of tag or identification collar.* Upon acceptance of the license application and fee, the City Secretary shall issue a durable tag or identification collar, stamped with an identifying number and the year riveted to the animal's collar or harness.

(g) *Wearing tag or identification collar.* Persons owning or harboring dogs and cats must make certain that animals securely wear identification tags or collars at all times.

(h) *Record of tags.* The City Secretary shall maintain a record of the identifying numbers of all tags issued.

(i) *Late fee.* A person who fails to obtain a license as required within the time period specified in this section will be required to pay a late fee of \$10.00.

(j) *Fees.* A license shall be issued after payment of the applicable fee or registration as follows:

(1)	For each unneutered male dog	\$5.00
(2)	For each unneutered male cat	\$5.00
(3)	For each unspayed female dog	\$5.00
(4)	For each unspayed female cat	\$5.00
(5)	For each neutered male dog	No Fee
(6)	For each neutered male cat	No Fee
(7)	For each spayed female dog	No Fee
(8)	For each spayed female cat	No Fee

(k) *Duplicate license.* An applicant may obtain a duplicate license upon payment of a replacement fee of \$2.00.

(l) *Use of license or tag for other animal.* No person shall use any license or tag for any animal other than the animal for which it was issued.

(m) *Revocation.* The City Secretary shall revoke any license if the person holding the license refuses or fails to comply with this article, any administrative regulations promulgated by the Chief of Police or his designee, or any law governing the protection and keeping of animals.

(n) *Effect of revocation.* Any person whose license is revoked shall, within ten (10) days after the revocation, remove from the City or humanely dispose of all animals owned, kept or harbored by such person, and no part of the license fee shall be refunded.

(o) *Inspections authorized.* It shall be a condition of the issuance of any license under this article that consent is granted to the Chief of Police, Animal Control Officer and/or City Veterinarian to inspect all animals and the premises where animals are kept at any reasonable time and, if permission for such inspection is refused, the City Secretary shall revoke the animal license issued to the refusing owner.

(p) *Withholding or falsifying information.* If the applicant has withheld or falsified any information on an application, the City may refuse to issue a future license or may revoke the current license.

ARTICLE V. KENNELS

Sec. 14-200. Definition.

The term "kennel" shall be construed to mean any premises, or portion thereof, wherein any person or entity engages in the business of boarding, breeding, buying, letting for hire, trading for a

fee, training, or selling dogs or cats; provided, however, this definition shall not apply to animal shelters, veterinary clinics, or animal hospitals operated by veterinarians duly licensed under the laws of the State of Texas.

Sec. 14-201. Permits.

(a) No person, partnership, corporation, or entity shall operate a kennel without first obtaining a permit in compliance with this section.

(b) The City Veterinarian shall recommend that the City Council promulgate regulations for the issuance of kennel permits and shall include requirements for humane care of all animals and for compliance with the provisions of this Ordinance and other applicable laws. The City Council may amend such regulations from time to time as deemed desirable for public health and welfare

and for the protection of animals.

(c) Upon a showing by an applicant for a kennel permit that he is willing and able to comply with the regulations promulgated by the City Council, a permit shall be issued upon payment of the applicable fee.

(d) At the time of applying for a kennel permit, the applicant must present current proof that all animals in the kennel have been vaccinated against rabies. The permit period shall be for one year. Renewal applications for permits shall be made 30 days prior to the date of expiration of the permit.

(e) If there is a change in ownership of a kennel, the new owner may have the current permit transferred to his name upon payment of a \$5.00 City transfer fee.

(f) Annual permits shall be issued upon payment of the applicable fee as follows:

1. for each kennel authorized to house less than 10 dogs or cats or a combination thereof - \$10.00;
2. for each kennel authorized to house 10 or more but less than 25 dogs or cats or a combination thereof- \$25.00;
3. for each kennel authorized to house 25 or more but less than 50 dogs or cats or a combination thereof - \$50.00.

(g) It shall be unlawful to house more than 50 dogs or cats or a combination thereof in a kennel within the City limits of the City of Wharton, Texas.

(h) Every facility regulated by this Ordinance shall be considered a separate enterprise and must have a separate permit.

(i) Persons or entities operating kennels for the breeding of dogs or cats may elect to license such animals individually in addition to obtaining kennel permits.

(j) It shall be unlawful for any person or entity to own or operate a kennel within the City limits unless such person or entity shall have first qualified for and have received a kennel permit from the City.

Sec. 14-202. Kennel Plans

All plans for construction of kennels shall be reviewed by the City Building Inspector in consultation with the City Veterinarian and then submitted to and approved by the City Council before any City building permit is issued or any construction is begun.

Sec. 14-203. Inspection

(a) Prior to approval of an application for a kennel permit, the City Building Inspector in consultation with the City Veterinarian shall review the proposed plans or establishment to determine whether or not they are in compliance with the requirements of this Ordinance.

(b) The City of Wharton shall issue a permit to the applicant if the City Building Inspector's review shows that the proposed plans or establishment complies with the requirements of this Ordinance.

(c) If the City Building Inspector's review or inspection shows that the proposed plans or establishment do not comply with the requirements of this Ordinance, the applicant may request that the City Veterinarian review or inspect the proposed plans or establishment a second time to determine whether or not they are in compliance with the requirements of this Ordinance. The fee for each additional review or inspection beyond the second review or inspection shall be \$150.00.

Sec. 14-204. Time of Inspection.

It shall be a condition of the issuance of any permit that the City of Wharton, by and through its Chief of Police or his designee, Animal Control Officer and/or City Veterinarian, shall be permitted to inspect at any time all animals as well as the premises where the animals are kept. If permission for such inspection is refused, the City may suspend or revoke the permit of the refusing owner.

Sec. 14-205 Permit Revocation.

(a) Any person or entity whose kennel permit is revoked shall, within ten (10) days thereafter, remove from the City or humanely dispose of all animals owned, kept, or harbored by such person, and no part of the permit fee shall be refunded.

(b) If the applicant has withheld or falsified any information required on the application, the City may revoke the kennel permit issued, or may refuse to issue the permit.

Sec. 14-206. Distance from Residences.

(a) It shall be unlawful for any part of any kennel authorized to house less than 10 dogs or cats, or a combination thereof, to be located within 100 feet of any resident dwelling house or other building normally occupied by people, except the resident dwelling house of the owner or operator of the kennel.

(b) It shall be unlawful for any part of any kennel authorized to house 10 or more but less than 25 dogs or cats, or a combination thereof, to be located within 300 feet of any resident dwelling house or other building normally occupied by people, except the resident dwelling house of the owner or operator of the kennel.

(c) It shall be unlawful for any part of any kennel authorized to house 25 or more dogs or cats but less than 50, or a combination thereof, to be located within 500 feet of any resident dwelling house or other building normally occupied by people, except the resident dwelling house of the owner or operator of the kennel.

(d) Existing kennels at the time of the effective date of this Ordinance (post six-month grace period) must apply for a City permit to remain in operation. The application for permit shall be filed within sixty (60) days of the effective date of this Ordinance. A plan for any improvements to an existing kennel required to comply with this Ordinance shall be developed by the kennel owner and submitted to the City Building Inspector for review. Upon plan approval by the City Building Inspector in coordination with the City's Veterinarian, the kennel owner must adhere to the schedule of any improvements proposed, or risk permit revocation. Only new portions of an existing kennel constructed after the effective date of this article must be compliant with this article. Pre-existing portions of the kennel existing prior to the effective date of this article may only be maintained or renovated and not expanded unless made compliant with this article.

ARTICLE VI. KEEPING OF WILD ANIMALS

Sec. 14-207. Wild animal defined.

As used in this article, the term wild *animal* shall mean any mammal, amphibian, reptile or fowl of a species that is *wild* by nature and that, because of its size, vicious nature or other characteristics, is dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, bears, wolves, wolf-dog hybrids, cougars, coyotes, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles and any snake that will grow to a length greater than eight feet. The term shall also include any animal listed as an 'endangered species' under the federal Endangered Species Act of 1973, as amended, or any fowl protected by the federal Migratory Bird Treaty Act. The term wild *animal* shall not include gerbils, hamsters, guinea pigs, mice and domesticated rabbits.

Sec. 14-208. Possession prohibited.

(a) It shall be unlawful for any person to own, harbor or be in possession of a wild animal within the City limits after the effective date of this article.

(b) It shall be unlawful for the owner or other person in possession or control of any lot, tract or parcel of land within the City limits or any residence or business premises situated thereon to knowingly suffer or permit any other person to be in possession of a wild animal upon the property, residence or premises.

(c) As used in this section, the term to *be in possession* includes any harboring or keeping of a wild animal, whether on a temporary or permanent basis and includes, without limitation, holding or keeping the wild animal for the temporary and/or limited purpose of sale or transfer or offering of sale or transfer to another person.

(d) It is an affirmative defense to prosecution under this section that the wild animal is being possessed in accordance with all applicable state and federal laws and that:

- (1) The wild animal is being kept for treatment in an animal hospital operated by a veterinarian licensed in Texas;
- (2) The wild animal is being kept at a public zoo that is accredited by a nationally recognized zoological association;
- (3) The wild animal is being kept at a shelter operated by a state or federally recognized humane agency for the purpose of its transfer to a refuge or sanctuary;
- (4) The wild animal is being kept for medical research or teaching purposes at a medical school or licensed hospital or by a university or college offering an accredited degree program;
- (5) The wild animal is in the possession of an airline, motor freight agency, rail freight agency or other carrier, and its possession in the City is incidental to transportation, provided that the wild animal is secured within a cage or other enclosure that is adequate to prevent its escape; or
- (6) The wild animal is being kept or transported temporarily for a production in accordance with a permit or registration under section 14-211 of this Code.

Sec. 14-209. Vaccination.

No person shall vaccinate, or attempt to vaccinate, any wild animal against rabies except in strict compliance with any regulations promulgated and published by the Texas Department of Health and in accordance with the current protocol published by the American Veterinary Medicine Association for the vaccination of wild animals.

Sec. 14-210. Penalty.

Violation of any provision of this article is a misdemeanor punishable by a fine of not less than \$500, nor more than \$2000. Each wild animal possessed in violation of this article and each day on which it is possessed shall constitute and be punishable as a separate offense.

Sec. 14-211. Temporary permit; registration for productions.

(a) In this section, the term production means any temporary exhibition or use of a wild animal for purposes of a television, movie or stage production, circus or carnival performance, traveling zoo or animal exposition or other similar use.

(b) A temporary and nonrenewable permit to possess a wild animal in the City for a period of not more than thirty (30) days may be obtained from the Chief of Police or his designee for the purpose of a production. The applicant for such a permit shall demonstrate to the Chief of Police or his designee that:

- (1) The wild animal is required for the production;
- (2) The wild animal will be in the direct charge of its trainer or another person who is familiar with the wild animal and has been trained in its handling and care;
- (3) The applicant will, consistent with the size and characteristics of the wild animal, have additional handlers available as required to control the wild animal at any time that it is not confined;
- (4) The owner of each place where the production will take place and the owner of each place where the wild animal will be kept, if different, has consented in writing to its presence;
- (5) The applicant holds a policy of public liability insurance issued by a carrier authorized to write the policy under Texas law in an amount of not less than \$100,000, per occurrence, providing coverage in case of injury or death of any person or damage to any property that results from negligence in the control or handling of the wild animal; and
- (6) The wild animal will be kept in such manner as to prevent its escape and to prevent injury to the general public and persons not associated with the production.

(c) Applications for such permits shall be made in writing to the Chief of Police or his designee upon forms promulgated for that purpose and at least 20 days before the commencement of the production. Each application shall be accompanied by a nonrefundable fee of \$100 for five or fewer wild animals, \$200 for six to ten wild animals or \$300 for eleven or more wild animals.

(d) A permit issued under this section is valid only for the designated production and the keeping of a wild animal in the City for that limited purpose and shall only extend for the duration of the production.

(e) As a condition of the permit issuance, the holder consents that the Chief of Police or his designee and/or City Veterinarian shall have the right to inspect a wild animal at any time while it is being kept under a permit issued under this article.

(f) In the event that the Chief of Police or his designee proposes to deny a permit application, the applicant shall be afforded notice of the reasons and an opportunity for a hearing. Following notice, the Chief of Police or his designee may revoke a permit for any violation of this article or applicable state or federal laws. The permit holder shall be afforded an opportunity for a hearing before a permit is revoked. Pending the hearing, the Chief of Police or his designee may suspend the permit if the actions of the permit holder appear to constitute a substantial hazard to public health or safety. Hearings and proceedings shall be conducted in the same manner as provided in Article X, Administrative Hearings of this Code.

(g) The provisions of this section shall not be construed to require a person to obtain a City permit if the person holds a current and valid exhibitors license under the federal Animal Welfare Act (7) U.S.C. § 2131 *et seq*) or a current and valid circus, carnival or zoo operators license issued under chapter 824 of the Texas Health and Safety Code and is conducting the production under authority of the state or federal license, provided that the person registers his production with the Chief of Police or his designee and provides the following information:

- (1) A description of each wild animal to be kept;
- (2) A copy of the state or federal license or other evidence that the person holds a current and valid state or federal license to keep and use the wild animals for the production;
- (3) Evidence that each person on whose property the production will be presented or the wild animals will be kept has consented in writing to the presence of the wild animals on the person's property; and
- (4) The name, local address and local telephone number of a person or persons who may be contacted for inspections conducted or notices given by the Chief of Police or his designee or in case of any escape, attack or other incident involving the wild animal(s).
- (5) The Chief of Police or his designee and/or City Veterinarian may conduct inspections of wild animals kept pursuant to registrations filed under this article and, in cooperation with responsible state and federal regulatory authorities, may take action as appropriate to ensure that wild animals are kept and exhibited in accordance with applicable state and federal requirements.

Sec. 14-212. Impoundment.

(a) The Chief of Police or his designee shall seize any wild animal possessed in violation of this article and impound the animal at the City animal control center or another suitable place. The Chief of Police or his designee, or any police officer of the City may enter any building or property to seize a wild animal therein that is possessed in violation of this article upon the consent of an adult occupant of such building or property or one having the right of possession of such building or property, or under an administrative search warrant issued by a magistrate.

(b) The Chief of Police or his designee shall impose a fee for the impoundment of a wild animal in the amount of not less than \$50 nor more than \$250, per animal, and a daily boarding fee of not less than \$5 nor more than \$75, per animal. The amounts of the fees shall be predicated upon the cost of impoundment, care and feeding of the type of wild animal impounded, and the City Council may promulgate a schedule of applicable fees for various types of wild animals.

(c) A wild animal that has been impounded for the first time may be redeemed within seven days by its owner if:

- (1) The owner demonstrates that he holds any state or federal license or permit enabling ownership or possession of the animal;
- (2) The animal is not believed to be infected with rabies or any other infectious disease; and
- (3) The owner provides a sworn affidavit setting forth that the wild animal will immediately be removed from the City and will be kept at an identified place where its possession is not unlawful.
- (4) The Chief of Police or his designee may require that a wild animal that is released under this subsection be tattooed or otherwise made identifiable in the event that it is again impounded.

(d) Consistent with applicable state and federal laws and regulations, the Chief of Police or his designee shall dispose of any wild animal that is not timely redeemed following its first impoundment and of any wild animal that is again impounded by placing the wild animal in a public zoo, or at a reserve, sanctuary or shelter operated by or under the auspices of a recognized humane organization. If such a placement is not practicable and cannot be made within thirty (30) days following the date of impoundment, the wild animal may be destroyed if destruction is not prohibited by state or federal law.

Sec. 14-213—14-214 Reserved.

ARTICLE VII. PROHIBITED AND EXOTIC ANIMALS

Sec. 14-215. Definition of prohibited animals.

Prohibited animal shall mean:

- (a) Class Mammalia:
 - (1) Order Camivora:
 - a. Family Mustelidae (such as weasels, skunks, otters, badgers, mink and martens) EXCEPT ferrets;
 - b. Family Procyonidae (such as raccoons and coati);
 - c. Family Ursidae (bears);
 - d. Family Felidae (such as bobcats, lions, and tigers), EXCEPT cats;
- (b) Class Reptilia:
 - (1) Family Helodermatidae (venomous lizards);
 - (2) Family Hydrophiidae (venomous marine snakes);
 - (3) Family Crotalidae (rattlesnakes, fer-de-lance, water moccasins, copperheads)
 - (4) Family Viperidae(Old World Vipers);
 - (5) Family Elapidae (coral snakes, cobras, and mambas);
 - (6) Family Colubridae:
 - a. Dispholidus typus (boomslang);
 - b. Cyclasgras gigas (false water cobra);
 - c. Boiga Dendrophila (mangrove snake); and
 - d. Thelotomis Kirtlandii (bird snake);
 - (7) Order Crocodilia (crocodiles, alligators and gavials);
 - (8) Family Chelydridae:
 - a. Macrolemys temmincki (alligator snapping turtle); and
 - b. Chelydra serpentina (common snapping turtle);
- (c) Class Amphibia:
 - (1) Family Dendrobatidae: Phyllobates terribilis; and

(d) Any hybrid of an animal listed in this Section.

(e) All parentheticals references in this section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, Genus or species described.

Sec. 14-216. Ownership of Prohibited Animal.

(a) Definitions.

(1) *Institution* shall mean an established society or corporation, public or private, that utilizes animals in medical or scientific research, testing or experimentation, or for educational programs. The term shall include; public or private hospitals, laboratories and research facilities; public or private technical institutes, junior colleges, senior colleges or universities or any medical or dental unit thereof "any other agency of higher education" as defined in Section 61.003 of the Texas Education Code; and public and private elementary and secondary schools. The term shall exclude a dwelling, the land surrounding such dwelling, and any outbuildings belonging thereto.

(2) *Being transported* shall mean the act of being conveyed within a vehicle upon a public street.

(b) A person commits an offense if he owns, possesses or harbors a prohibited animal within the city limits after the effective date of this article.

(c) It is an exception that:

(1) The animal was in a medical or scientific research project, or educational program under institutional supervision, and on the premises of such Institution or being transported by an employee or agent of such institution;

(2) The animal was on the premises of or being transported by a circus, carnival, zoo or amusement park:

a. That is licensed under the Federal Animal Welfare Act, and that is inspected annually, or

b. That is licensed under Chapter 824 of the Texas Health and Safety Code;

(3) The animal was on the premises of an animal rehabilitation facility licensed by the State of Texas or by the United States of America, or being transported by an employee or agent of such facility.

(4) The animal was being transported through Wharton from a point outside the City to a point outside the City; or

- (5) The person was a licensed veterinarian who was providing veterinary care for a sick or injured prohibited animal.

Sec. 14-217. Impoundment of prohibited animals.

(a) The Chief of Police or his designee shall immediately impound all prohibited animals found in violation of this Chapter, and place them in the City animal control facility or other suitable facility.

(b) Any person owning or harboring a prohibited animal shall submit it to the Chief of Police or his designee immediately upon his request.

(c) A person commits an offense if he fails to submit a prohibited animal to the Chief of Police or his designee after having been ordered by the Chief of Police or his designee to do so.

(d) An order under this section shall be in writing, signed by the Chief of Police or his designee and served in person by the Chief of Police or his designee upon the owner or harbinger of the prohibited animal.

Sec. 14-218. Maintenance and Disposition of Prohibited Animal.

(a) The Chief of Police or his designee shall maintain any prohibited animal impounded under this Chapter for five (5) days.

(b) The Chief of Police or his designee shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

Sec. 14-219. Definition of Exotic Animals.

Exotic animal shall mean:

- (a) Class Mammalia:
 - (1) Order Marsupialia: Subfamily Macropodinae (wallabies, kangaroos, padmelons and wallaroos);
 - (2) Order Perissodactyla:
 - a. Family Tapiridae (tapirs);
 - b. Family Equidae (zebra, wild asses and wild horses) except domestic equine;
 - c. Family Rhinocerotidae (rhinoceros);
 - (3) Order Artiodactyla (such as hippopotamus, camels, giraffes, bison,

Antelope and deer) except domestic goats, oxen, sheep, cattle, pigs and llama;

- (4). Order Chiroptera (bats);
 - (5) Family Ailuridae (Pandas and lesser pandas);
 - (6) Family Viverridae (such as civets, mongoose and binturongs);
 - (7) Family Protelidae (aardwolves);
 - (8) Family Hyaenidae (hyenas);
 - (9) Family Canidae (such as jackals, foxes and wolves), EXCEPT dogs;
 - (10) Order Proboscidea (elephants);
 - (11) Order Primates(such as apes, monkeys and lemurs), EXCEPT:
 - a. Family Cebidae:
 1. Genus Cebus (Capuchin monkeys);
 2. Genus Ateles (Spider monkeys);
 3. Genus Brachyteles (Wooly spider monkeys);
 - b. Family Callimiconidae: Genus Callimico (Goeldi's monkey);
 - c. Family Callithricidae:
 1. Genus Callithrix (marmoset);
 2. Genus Leontideus (maned tamarin);
 3. Genus Saguinus (tamarins);
 4. Genus Oedipomidas (crested barefaced tamarind);
- (b) Class Aves:
- (1) Order Rheiformes (such as the rhea);
 - (2) Order Struthioniformes (such as the ostrich);
 - (3) Order Casuariiformes (such as the emu); and
- (c) Any hybrid of an animal listed in this Section;

(d) All parenthetical references in this section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

Sec. 14-220. Application of other laws.

The requirements in this Chapter regarding exotic animals shall be in addition to any Federal laws and regulations, and any Texas laws and regulations governing ownership of these animals.

Sec. 14-221. Offense.

A person commits an offense if he/she owns, possesses or harbors an exotic animal within the City limits after the effective date of this article.

Sec. 14-222. Transportation of exotic animals.

A person commits an offense if he transports an exotic animal unless such animal is transported in an appropriate cage.

Sec. 14-224. Impoundment of exotic animals.

(a) The Chief of Police or his designee shall immediately impound all exotic animals that are at large or that are being owned, maintained, harbored or transported in violation of this article, and place them in the City animal control facility or other suitable facility.

(b) A person owning, maintaining, harboring or transporting an exotic animal in violation of this Chapter shall submit it to the Chief of Police or his designee immediately upon his request.

(c) A person commits an offense if he fails to submit an exotic animal to the Chief of Police or his designee after having been ordered by the Chief of Police or his designee to do so.

(d) An order under this section shall be in writing, signed by the Chief of Police or his designee and served in person by the Chief of Police or his designee or a peace officer upon the owner or harbinger of the exotic animal.

Sec. 14-225. Maintenance and Disposition of Exotic Animal.

(a) The Chief of Police or his designee shall maintain any exotic animal impounded under this Chapter for five (5) days.

(b) The Chief of Police or his designee shall either euthanize the animal or shall sell or donate it to a suitable zoo wildlife refuge, or other institution.

ARTICLE VIII. DANGEROUS ANIMALS

Sec. 14-226. Knowledge of Dangerous Animal.

For purposes of this article, a person learns he is the owner or harborer of a dangerous animal when:

- (a) The owner or harborer knows of an attack by his animal resulting in serious bodily injury as defined herein.
- (b) The owner or harborer is notified by the Chief of Police or his designee that the animal is a dangerous animal.

Sec. 14-227. Reporting of Dangerous Animal.

- (a) The Chief of Police or his designee may receive a report concerning a dangerous animal. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Chief of Police or his designee.
- (b) The Chief of Police or his designee shall investigate all reports filed under this section.

Sec. 14-228. Notification and Appeal.

- (a) If, after investigating a report of a dangerous animal, the Chief of Police or his designee, in consultation with the City Veterinarian, determines the animal is a dangerous animal, he shall notify the owner or harborer in writing of the determination.
- (b) The notice required in subsection (a) shall be in writing, shall contain a statement that the owner or harborer has a right to appeal, and shall be attached to a copy of this article.
- (c) The Chief of Police or his designee shall utilize a known owner or harborer mailing address, or deliver written notice in person. A notice that is mailed is deemed received five (5) days after it is placed in a mail receptacle of the United State Postal Service.
- (d) An owner or harborer, not later than the thirtieth (30th) day after the date the owner or harborer is notified that an animal owned by him/her is a dangerous animal, may appeal the determination of the Chief of Police or his designee to the Wharton Municipal Court. An owner or harborer may appeal the decision of the Municipal Court to a County Court-at-Law, in the same manner as an appeal of a civil case.

Sec. 14-229. Requirements for owners and harborers of dangerous animals.

Not later than the thirtieth (30th) day after a person learns that he is the owner or harborer of a dangerous animal, he shall:

- (a) Register the dangerous animal with the Chief of Police or his designee;
- (b) Restrain the animal at all times in a secure enclosure; and

(c) Acquire and maintain special liability insurance coverage in an amount of at least One Hundred Thousand Dollars and No Cents(\$100,000.00) to cover any damages resulting from an attack by the dangerous animal.

(d) An appeal of a dangerous animal determination shall not act to stay these requirements.

Sec. 14-230. Registration.

(a) The Chief of Police or his designee shall annually register a dangerous animal if the owner or harborer:

- (1) Presents proof of current liability insurance for the permit period as required by section 14.229;
- (2) Presents proof of a current rabies vaccination of the dangerous animal if it is a dog or cat;
- (3) Presents proof satisfactory to the Chief of Police or his designee that the enclosure in which the animal will be kept is a secure enclosure; and
- (4) Pays an annual City registration fee of Fifty Dollars and No Cents (\$50.00).

(b) The Chief of Police or his designee shall provide to the owner or harborer registering a dangerous animal, a dangerous animal registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous animal registration shall be valid for one (1) year from the date of issuance.

(c) The owner or harborer of a registered dangerous animal shall attach the tag to the animal's collar, or similar device, and shall place such collar or device on the animal.

(d) If the owner or harborer of a registered dangerous animal sells or gives away the animal or moves the animal to a new address, the owner or harborer, not later than the fourteenth (14th) day after the date of the sale, gift or move, shall notify the Chief of Police or his designee of the animal's new address and new owner or harborer if applicable.

(e) If a new owner or harborer keeps the animal within the City of Wharton, he shall register the animal with the Chief of Police or his designee within fourteen (14) days after receiving it.

(f) When the owner or harborer of an animal registered as a dangerous animal in another Jurisdiction becomes a resident of Wharton, he shall register the animal with the Chief of Police or his designee within fourteen (14) days after becoming a new resident.

(g) The Chief of Police or his designee shall register a dangerous animal with a new owner or harborer, or owner or harborer who is a new City of Wharton resident, if such owner or harborer:

- (1) Presents proof of liability insurance as required by Section 14-229;
- (2) Presents proof satisfactory to the Chief of Police or his designee that the enclosure in which the animal will be kept is a secure enclosure;
- (3) Relinquishes the animal's unexpired dangerous animal registration tag to the Chief of Police or his designee; and
- (4) Pays a re-registration fee of \$25.00.

(h) If a dangerous animal's registration is expired when a new resident or new owner or harborer attempts to reregister it, the new owner or harborer or new resident shall follow the registration requirements of Subsection (a).

- (1) A re-registration shall be valid only for the time remaining on the prior registration.
- (2) When the Chief of Police or his designee is informed that a dangerous animal has been moved to another jurisdiction, or when the Chief of Police or his designee reregisters a dangerous animal previously registered in another jurisdiction, he should notify his counterpart for such jurisdiction of this information.

Sec. 14-231. Notification of Attacks.

(a) The owner or harborer of a registered dangerous animal shall notify the Chief of Police or his designee of all attacks the animal makes on humans.

(b) Additionally, the owner or harborer of a registered dangerous dog shall notify the Chief of Police or his designee of all attacks made by the dangerous dog on domestic animals and domestic fowl.

Sec. 14-232. Offenses.

(a) A person commits an offense if the person is the owner or harborer of a dangerous animal and the animal makes an unprovoked attack on another person outside the animal's enclosure, and the attack causes serious bodily injury to the other person.

(b) A person commits an offense if the person is the owner or harborer of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.

(c) A person who owns or harbors or keeps custody or control of a dangerous animal commits an offense if the person fails to comply with section 14.229.

(d) A person commits an offense if he owns or harbors or keeps custody or control of a dangerous animal without having such animal currently registered with the City of Wharton.

(e) The owner or harborer of a registered dangerous animal commits an offense if he fails to comply with Section 14-230(d).

(f) The new owner or harborer of a registered dangerous animal commits an offense if he fails to comply with Section 14-230(e).

(g) The owner or harborer of an animal registered as a dangerous animal in another jurisdiction commits an offense if he fails to comply with Section 14-230(f).

(h) The owner or harborer of a registered dangerous animal commits an offense if he fails to comply with Section 14-231.

(i) The owner or harborer of a registered dangerous animal commits an offense if he sells or gives the animal to another person and fails to notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

(j) The owner or harborer of a registered dangerous animal commits an offense if he fails to display on such animal a current dangerous animal registration tag issued by the City of Wharton.

(k) Seizure of a dog causing death of, or serious bodily injury to a person.

(1) A justice court, county court, or municipal court may order an Animal Control Authority to seize a dog and may issue a warrant authorizing the seizure:

(i) on the sworn complaint of any person, including the county attorney, the City Attorney, or a peace officer, that a dog has caused the death of, or serious bodily injury to, a person by attacking, biting, or mauling the person; and

(ii) on a showing of probable cause to believe that a dog caused the death of, or serious bodily injury to, the person as stated in the complaint.

(2) The Animal Control Authority may seize a dog or order its seizure and may provide for the impoundment of a dog in secure and humane conditions until the Court orders the disposition of a dog.

Sec. 14-233. Defenses.

(a) It is a defense to prosecution under Section 14-232 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the State or a political subdivision of the State to manage the care and custody of stray animals and has temporary ownership, custody or control of the animal in connection with that position.

(b) It is a defense to prosecution under Section 14-232 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(c) It is a defense to prosecution under Section 14-232 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413) (29bb), Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

Sec. 14-234. Destruction of Animal.

If a person is found guilty of an offense under Section 14-232(a) or 14-232(b), the Court may order the Chief of Police or his designee to impound and destroy the animal immediately.

ARTICLE IX. MISCELLANEOUS

Sec. 14-235. Disposal of Dead Animals.

(a) Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:

- (1) Animals weighing fifty (50) pounds or less may be buried on the owner's or harborer's premises at a depth of not less than twelve inches (12").
- (2) Animals weighing twenty (20) pounds or less may be placed for trash collection if they are first wrapped securely in newspaper and put in a bag of a type approved by the Chief of Police or his designee.
- (3) Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly registered pet cemetery.
- (4) If requested by the owner or harborer, dogs and cats will be picked up by the Chief of Police or his designee and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.
- (5) A landfill operator shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk or violate any State or federal regulations.

- (6) The Chief of Police or his designee shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the animal control facility.

ARTICLE X. ADMINISTRATIVE HEARINGS

Sec. 14-236. General Provisions.

- (a) When notice is required to be given to a person under this article, it shall be in writing and mailed certified mail return receipt requested to that person's last known mailing address.
- (b) Notice shall specify the date, time and place of any hearing.
- (c) Notice shall be deemed received five (5) days after it is placed in a mail receptacle of the United State Postal Service.
- (d) For purposes of this article, the Hearings Examiner, as appointed by the Municipal Court Judge, shall be empowered to administer oaths to witnesses and to promulgate procedural rules for the conduct of hearings.
- (e) Whenever any deadline specified in this article falls upon a Saturday, Sunday or a City recognized holiday, the deadline shall be the next regular City business day.
- (f) The date of an order or ruling required to be made under this article shall be deemed to be the date it is signed by the Hearings Examiner.
- (g) The administrative remedies set forth in this article shall be in addition to any civil or criminal penalties provided in the ordinances of this City or the laws of this State.

Sec. 14-237. Administrative Hearing for License Revocation.

- (a) The Chief of Police or his designee shall apply to the Municipal Court Clerk for an administrative hearing to determine whether a dog or cat license issued by the City of Wharton should be revoked if:
 - (1) The dog or cat has been impounded by the City three (3) or more times during a twelve (12) month period;
 - (2) The owner or harbinger has been convicted in the Wharton Municipal Court three (3) or more times during a twelve (12) month period for violations of any article in this Chapter involving the dog or cat; or
 - (3) There is a combination of (1) and (2) above totaling three (3) or more incidents in the same twelve (12) month period.

(b) The application for hearing shall be on a form prescribed by the Municipal Court Clerk . A copy of all documents relating to the incidents for which revocation is sought shall be attached to the application.

(c) The Municipal Court Clerk shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

(d) The Municipal Court Clerk shall send notice of the hearing to the owner or harborer, and shall inform the Chief of Police or his designee of the hearing date, time, and location.

(e) The sole issue to be decided at the hearing is whether the dog or cat license should be revoked.

(f) At the conclusion of the hearing the Hearings Examiner shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay stating that the license is either revoked or not revoked. A copy of such order shall be sent to the Chief of Police or his designee and to the owner or harborer by certified mail, return receipt requested.

(g) Upon the license being revoked, the owner or harborer shall have ten (10) days to remove the dog or cat from the City.

Sec. 14-238. Administrative Hearing-Ownership or Harboring of Animal with Revoked License.

(a) After impounding a dog or cat whose license has been revoked and which has not been removed from the City, Chief of Police or his designee shall apply to the Municipal Court Clerk for an administrative hearing to determine the disposition of the animal.

(b) The application for hearing shall be on a form prescribed by the Municipal Court Clerk .

(c) The Municipal Court Clerk shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

(d) The Municipal Court Clerk shall send notice of the hearing to the owner or harborer of the animal, and further shall inform the Chief of Police or his designee of the hearing date, time, and location.

(e) The sole issue to be determined at the hearing is whether the animal should be euthanized or placed for adoption.

(f) At the conclusion of the hearing, the Hearings Examiner shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

- (1). If the Hearings Examiner finds that the animal should be euthanized, he shall order the animal euthanized by the Chief of Police or his designee.

- (2) If the Hearings Examiner finds that the animal should be placed for adoption, he shall order the Chief of Police or his designee to place it for adoption.
- (3) If the Hearings Examiner finds that the animal should be euthanized or placed for adoption, the owner or harborer may appeal to the Municipal Court.

Sec. 14-239. Administrative Hearing - Prohibited Animal.

(a) The owner or harborer of an impounded prohibited animal may request an administrative hearing before a Hearings Examiner to establish:

- (1) That the animal is not a prohibited animal; or
- (2) That the animal falls within one of the exceptions to owning or harboring prohibited animals.

(b) The owner or harborer of the animal shall have the burden of proof at the hearing.

(c) A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner or harborer expects to prove at the hearing. The request shall be signed and sworn to by the owner or harborer.

(d) A request for a hearing shall be filed with the Municipal Court Clerk no later than 5:00 p.m. on the fifth (5th) calendar day following the impoundment of the animal.

(e) A Hearings Examiner shall hold the hearing within five (5) business days from the date the hearing request is filed.

(f) The Municipal Court Clerk shall give notice of the hearing to the owner or harborer, and shall inform the Chief of Police or his designee of the hearing date, time, and location.

(g) At the conclusion of the hearing, the Hearings Examiner shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

- (1) If the Hearings Examiner finds that the animal is not an exotic animal, was not in violation of Article VII and was not at large, he shall order the animal released to the owner or harborer.
- (2) If the Hearings Examiner finds that the animal was in violation of Article VII or at large, he shall order it disposed of as provided for in Article VII, Section 14-218.
- (3) If the Hearings Examiner finds that the animal was in violation of Article VII or at large, the owner or harborer may appeal to the Municipal Court.

Sec. 14-240. Appeal to Municipal Court.

(a) The owner or harborer of an animal the subject of a hearing under Sections 14-237, 14-238 and 14-239 may appeal an adverse ruling to the Municipal Court.

(b) Notice of appeal shall be filed with the Municipal Court Clerk no later than 5:00 p.m. on fifth (5th) calendar day following the date of the Hearing Examiner's order.

(c) Notice of appeal shall be in writing and shall specify the grounds upon which the appeal is based.

(d) The Hearings Examiner shall immediately transmit to the Municipal Court Clerk all papers and any other items constituting the record of the action from which the appeal is taken.

(e) An appeal shall be conducted no later than the tenth (10th) calendar day following the date the appeal is filed.

(f) The Municipal Judge shall make a written ruling following the appeal finding that the order of the Hearings Examiner is either upheld or reversed.

(g) If the order of the Hearings Examiner is reversed, the Chief of Police or his designee shall release the animal to the owner or harborer. If the order of the Hearings Examiner is upheld, the Chief of Police or his designee shall proceed with disposition of the animal as provided for in this Chapter.

(h) This appeal shall exhaust all administrative remedies of the owner or harborer.

(i) The Municipal Court may set a time for a hearing to determine whether a dog caused the death of, or serious bodily injury to, a person by attacking, biting, or mauling the person. The hearing may be held not later than the tenth (10th) day after the date on which the warrant is issued.

(j) The Court shall give written notice of the time and place of the hearing to:

- (1) the owner of a dog or the person from whom a dog was seized; and
- (2) the person who made the complaint.

(k) Any interested party, including the county attorney, City Attorney, Animal Control Officer or City Veterinarian is entitled to present evidence at the hearing.

(l) The Municipal Court may order the dog destroyed if the Municipal Court finds that a dog caused the death of a person by attacking, biting, or mauling the person. If that finding is not made, the Court may order a dog released to:

- (1) its owner;

- (2) the person from whom a dog was seized; or
- (3) any other person authorized to take possession of a dog.

(m) The Municipal Court may order the dog destroyed if the Court finds that a dog caused serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the Court may order a dog released to:

- (1) its owner;
- (2) the person from whom a dog was seized; or
- (3) any other person authorized to take possession of a dog.

(n) The Court may not order a dog destroyed if the Court finds that a dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:

- (1) a dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which a dog was being kept, and:
- (2) the enclosure was reasonably certain to prevent a dog from leaving the enclosure on its own and the owner provided notice of the presence of a dog; and
- (3) the injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (4) a dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which a dog was being kept, and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (5) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using a dog for law enforcement purposes;
- (6) a dog was defending a person from an assault, or defending a person's property from damage or theft by the injured person; or
- (7) the injured person was younger than eight years of age, the attack, bite, or mauling occurred in an enclosure in which a dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.

ARTICLE XI. PENALTY

Sec. 14-241. Penalty.

Any person adjudged guilty of an offense after the effective date of this article shall be guilty of a misdemeanor punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00). Each day that a violation continues shall constitute a separate offense.

Sec. 14-242. Culpability.

If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required and the offense is one of strict liability.

ARTICLE XII. SAVINGS CLAUSE

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the city council in adopting this ordinance, that no portion thereof, or provision or regulation continued herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provision of this ordinance.

ARTICLE XIII. SEVERABILITY

Unless expressly provided otherwise, if any provision of this Code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Code that can be given effect without the invalid provision or application, and to this end the provisions of this Code are severable.

ARTICLE XIV. EFFECTIVE DATE

This Ordinance shall become effective on the 19th day of April 2002 at 12:01 a.m.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 8th day of April 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider a resolution creating a City Council Youth Advisory Commission in the City of Wharton, Texas. City Manager Andres Garza, Jr. presented the information received from Councilmember Jimmy Schulz regarding the Youth Advisory Commission. He stated that on March 27, 2002 he met with Councilmember Jimmy Schulz, Chase Gwinner, David Aaronson, Chad Schulz, Ross Poland and Andrew Garza to discuss the creation of a Youth Advisory Commission. Mayor Joel D. Williams publicly thanked Councilmember Jimmy Schulz for bringing forward a Youth Advisory Commission idea in which the youth could become involved in the governmental process. Mayor Williams publicly thanked, Chase Gwinner, David Aaronson, Chad Schulz, Ross Poland and Andrew Garza for their input. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2002-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 17**

A RESOLUTION CREATING A CITY COUNCIL YOUTH ADVISORY COMMISSION FOR THE CITY OF WHARTON, TEXAS.

WHEREAS, the City Council has determined that there is a need to create a Youth Advisory Commission for the City of Wharton, Texas; and

WHEREAS, this Youth Advisory Commission will be created to operate as a liaison between the youth of the community and the City Council on issues affecting youth by involving them in social, cultural, recreational, and other drug-free and alcohol free activities and when requested by the City Council or the City Manager, the commission shall give advice and assistance on matters concerning the needs of youth; and

WHEREAS, the City Council wishes the Youth Advisory Commission to consist of two members each from grades 7th grade through 12th grades, two from each private school grades 7 or higher, six members at large, two adults, and one volunteer coordinator who shall be chosen by the City Council to serve one-year terms, without compensation and the City Council shall have the power at any time to alter the size of the commission by expanding or reducing its membership; and

WHEREAS, members of the Youth Advisory Commission shall be selected through an application process and shall be appointed by the City Council and take office upon being sworn on their oath to uphold the duties of the office and the Constitution of Texas and of the United States of America; and

WHEREAS, the term of the office for each member shall be one (1) year, or until his/her successor is duly appointed and qualified unless a vacancy occurs prior to the expiration of a term, an appointment shall be made by the City Council for the remainder of the unexpired terms; and

WHEREAS, the commission shall elect from its membership a chairperson, vice-chairperson, and secretary for one-year terms of office commencing the first day of June of each year and a member shall be eligible for reelection to any of these offices as long as he or she remains on the commission; and

WHEREAS, the commission shall hold meetings at least monthly at locations in the City at times it may designate. All meetings of the commission shall be in accordance with the Texas Open Meetings Laws and posted at City Hall, Junior High, and High School. The presence of a majority of the commissioners then in office shall be necessary and sufficient to constitute a quorum, and an affirmative vote of the majority of those present shall be necessary to pass upon pending questions, except that on tie votes, the vote of the chairman shall be determinative, the chairman in addition being entitled to vote on all questions. Minutes of meetings shall be kept and the record filed with the person performing the duty of city secretary; and

WHEREAS, in the performance of its function, the commission is an advisory body authorized to make recommendations to the City Council and City Manager on the following:

1. Policy matters affecting the youth of the community;
2. Planning, organizing coordinating, and carrying out drug-free and alcohol-free social, cultural, recreational, achieving, educational, and other activities for the youth in the community;
3. Establishing guidelines, rules, and procedures for participation in such activities; and
4. Entering into agreements with entertainers, concessionaires, and other third parties as may be deemed desirable by the commission within available funds and in accordance with applicable state and city laws and procedures; and

WHEREAS, by May 1 of each year, the commission shall submit to the City Council a written report of its activities for the previous year and an annual plan of work for the ensuing year of which these documents shall be retained as part of the official city records. Subject to the approval of the City Manager, the facilities and personnel of the City shall be made available to assist the commission in carrying out its functions; and

WHEREAS, the commission is authorized to amend its rules and procedures for the conduct of its authorized activities subject to the approval of the City Council; and

WHEREAS, Commission members are subject to the attendance policy and procedure adopted by the City Council and any member who misses (3) three consecutive regular meetings, or whose overall attendance at regular meetings for any twelve-month period falls below seventy-five (75) percent, has automatically vacated his seat. The commission shall at once notify the City Council that a vacancy exists. Vacancies shall be filled within thirty (30) days by appointment for the remainder of the term.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the City Council hereby establishes this Youth Advisory Commission.

Section II. That the City Council hereby establishes the aforementioned guidelines with which the Youth Advisory Commission will conduct its operations and business.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 8th of April 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary

Councilmember Jimmy Schulz seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider a resolution authorizing Andres Garza, Jr. as City Manager of the City of Wharton, Wharton County, Texas to sell surplus personal property. City Manager Andres Garza, Jr. presented the surplus personal property list to the City Council. He stated that the County Commissions Court would hold the Public Auction on Saturday, May 18, 2002. Councilmember Bryce D. Kocian asked if the vehicles were seized. Police Chief Tim Guin stated that the vehicles were seized and the funds received from the sale would be deposited in the Seizure Fund. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2002-18, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002-18**

A RESOLUTION AUTHORIZING ANDRES GARZA, JR., AS CITY MANAGER OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS TO SALE SURPLUS PERSONAL PROPERTY.

WHEREAS, the City of Wharton has identified surplus personal property; and

WHEREAS, the City Council of the City of Wharton wishes to authorize the City Manager to sale the surplus personal property directly to the public by publication notification or by the Wharton County Auction; and

WHEREAS, Wharton County will hold a public auction sale May 18, 2002; and

WHEREAS, the City of Wharton wishes to sale by publication notification or at public auction personal property identified and attached to this resolution (Exhibit "A").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the City Council of the City of Wharton hereby authorizes the City Manager resolution. to sale the surplus personal property identified in this

Section II. The City Council of the City of Wharton hereby authorizes the sale of this personal property by publication notification or at the May 18, 2002; auction to be held by Wharton County.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 8th day of April 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
Deputy City Secretary

**City of Wharton
Surplus Property**

Police Department				Estimated Value
1985	GMC Suburban	VIN	1G5EC16L1FF521990	\$3,500
1990	Freightliner Tractor	VIN	1FUZYDCYBXLH379201	\$8,000 minimum
1994	Benson Flatbed Trailer 40' Aluminum Float	VIN	1NUFT28Z5RMNA0128	\$10,000

Bicycles
Office Chairs
Miscellaneous Computer Components

EMS Department

1990 Chevy Silverado 3500 Ambulance
Milage: 082343
VIN: 1GBJC34N5LE206316
Lic#: 591-671
Manufacturer: Wheeled Coach and re-mounted by Frazier Co.

Councilmember Jimmy Schulz seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider an ordinance exempting travel trailers from ad valorem taxation, repealing parts of conflicting ordinances, providing for severability, and declaring an effective date. City Manager Andres Garza, Jr. presented a memorandum from Finance Director and himself to the City Council regarding exemption of travel trailers from taxation. He stated that the Texas State Legislature passed House Bill 2076, which allows travel trailers to be considered taxable property and authorized the governing body of a taxing entity, other than a school district, to exempt travel trailers from taxation by official action of the governing body. He then stated that the City had not received ad valorem taxes on travel trailer in the past years, therefore passing the exemption would not affect the City's revenues. Councilmember Bryce D. Kocian stated that 453 travel trailers were in Wharton County, with an average value of \$2,500. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Ordinance No. 2002-08, which read as follows:

CITY OF WHARTON ORDINANCE NO. 2002 - 08

AN ORDINANCE EXEMPTING TRAVEL TRAILERS FROM AD VALOREM TAXATION, REPEALING PARTS OF CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

H.J.R. 44, passed by Texas voters at the November 6, 2001 election, authorized the legislature to allow taxing units, other than school districts, to exempt travel trailers registered in Texas on January 1 and not held or used for the production of income, regardless of whether the travel trailer is real or personal property, and the enabling legislation, H.B. 2076, was effective January 1, 2002, and

Tex. Tax Code § 11.142, Travel Trailers, provides:

- (a) In this section "travel trailer" means a house trailer-type vehicle or a camper trailer, regardless of whether the vehicle is affixed to real property, that:
 - (1) is less than 400 square feet in area; and

(2) is designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling.

(b) The governing body of a taxing unit, other than a school district, by official action of the body adopted in the manner required by law for official action may exempt from taxation a travel trailer that a person owns, regardless of whether the travel trailer is real or personal property, if:

- (1) on January 1 of the applicable tax year, the travel trailer is registered in this state in compliance with Chapter 502, Transportation Code; and
- (2) the travel trailer is not held or used for the production of income.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS that:

1.

Travel trailers, as defined by Texas Tax Code § 11.142(a), that are not held or used for the production of income, are exempt from ad valorem taxation.

2.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

3.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

4.

The provisions of this ordinance shall become immediately after passage by the City Council.

Passed and Approved by the City Council of the City of Wharton, Texas this 8th day of April 2002.

By _____
JOEL D. WILLIAMS
Mayor

ATTEST

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Ken Freese seconded the motion. All voted in favor.

The fourteenth item discussed on the agenda was to review and consider the City of Wharton Budget Calendar for Fiscal Year 2002-2003. Finance Director Joyce Vasut presented the City of Wharton Budget Calendar for Fiscal Year 2002-2003 to the City Council. After some discussion, no action was taken.

The fifteenth item discussed on the agenda was a report on the United States Postal Service. City Manager Andres Garza, Jr. informed the City Council that Mayor Joel D. Williams and himself had met with Ms. Wilma Dustin, Postmaster for the U.S. Postal Service and discussed the service issues raised at the regular City Council Meeting held on March 25, 2002. Mayor Joel D. Williams stated Ms. Dustin spoke of budget constraints, but would install extra boxes outside within the next 30 days, and would work to get automation self service. Mayor Williams stated that Ms. Dustin would continually like to hear from City Council because she knew they heard from the citizens. After some discussion, no action was taken.

The sixteenth item discussed on the agenda was to review and consider a recommendation from the Planning Commission:

A. Request by Mr. & Mrs. Everett Mathis for a side setback variance for the construction of a storage building at 1725 Schley; Pecan Acres, Block 2, Lot 11.

Building Official Ronnie Bollom addressed the City Council and presented the Planning Commission's recommendation for approval. After some discussion, Councilmember Don Mueller made a motion to approve the side setback variance for the construction of a storage building at 1725 Schley; Pecan Acres, Block 2, Lot 11.

Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider a recommendation from the Wharton Regional Airport Board:

A. City Council approval of the Preliminary Plans and Specifications for the Wharton Regional Airport Layout Plan Project submitted by O'Malley Engineers, L.L.P.

City Manager Andres Garza, Jr. presented the Airport Board's recommendation for approval of the plans and specifications for the Airport Layout Plan (ALP) project. Mayor Joel D. Williams stated that the plans could be amended by the City Council. City Manager Andres Garza, Jr. stated that the layout plan needed to be filed with the FAA. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Preliminary Plans and Specifications for the Wharton Regional Airport Layout Plan Project as submitted by O'Malley Engineers, L.L.P. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider the Wharton Regional Airport T-Hangar Improvement Project – B & B Metal Buildings, Inc.:

A. Pay Estimate No. 3.

B. Change Order No. 3.

City Manager Andres Garza, Jr. presented Pay Estimate No. 3 in the amount of \$14,311.75 and Change Order No. 3 providing an additional sixty (60) days to the contract to finish the additional work authorized by the City, with the contract ending date of May 24, 2002 on the Wharton Regional Airport T-Hangar Improvement Project by B & B Metal Buildings, Inc. After some discussion, Councilmember Ken Freese made a motion to approve Pay Estimate No. 3 in the amount of \$14,311.75 and Change Order No. 3 for an increase of 60 days. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider a request for Travel Reimbursement by City Manager. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Travel Reimbursement by City Manager for the period January 18, 2002 through March 21, 2002 in the amount of \$238.06. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the Boards, City Council Committee, and Commission Reports:

A. Planning Commission meeting held April 1, 2002.

B. Wharton Regional Airport Board meeting held April 2, 2002.

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting was adjourned at 8:03 P.M.

City of Wharton
Regular City Council Meeting
April 8, 2002

By:

JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary