

CHAPTER 6
HEALTH AND SANITATION

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§ 1-00. TALL WEEDS AND GRASS

§ 1-01. Tall Weeds and Grass, Brush and Sanitary Matter Prohibited

(a) It shall be unlawful for any owner and/or occupant of any lot or premises in the city to allow or permit weeds and/or grass to grow in excess of 12 inches in height or the average or to grow in rank profusion on such lot or premises or permit rubbish, brush, or other objectionable, unsightly, or unsanitary matter whatsoever to grow, accumulate, or remain on any lot or property.

(b) It shall be unlawful for any person, owner, agent, and/or occupant of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, within the city limits to permit weeds and/or grass to grow along the sidewalk or street adjacent to the same between the property line and the curb or if there is no curb line, within 10 feet outside that property line to a height exceeding 12 inches on an average or to grow in rank profusion upon said lot or premises or to permit rubbish, brush, or other objectionable, unsightly, or unsanitary matter whatsoever to grow, accumulate, or remain thereon.

§ 1-02. Duty of Owner to Abate Tall Weeds or Grass; Notice

(a) It shall be the duty of any person, owner, agent, and/or occupants of any lot or premises within the city limits to remove or cause to be removed, all such weeds and/or grass, rubbish, brush, or other objectionable, unsightly, or unsanitary matter as may be necessary to comply with these provisions hereof. And whenever any such condition as described in § 1-01 hereof, is found to exist on a lot or premises within the city, the person, owner, agent and/or occupant shall be notified in writing to correct, remedy, or remove the condition within 10 days after such notice is given. Such notice shall either be served personally or by registered mail with a return receipt requested to the last known address of the owner.

(b) If the notice is returned undelivered by the U. S. Postal Service, official action to abate said violation shall be continued to a date not less than 10 days from the date of such return.

§ 1-03. City May Abate Nuisance; Assessment of Lien

In the event the person, owner, agent, and/or occupant of any lot or premises upon which condition described in § 1-01 is not corrected, remedied, or removed within 10 days after notice to do so is given, the city may do such work at the expense of the city on the account of owners of said premises and pay therefore and charge the expenses incurred to the owner of such lot upon which such expenses are incurred. The doing of such work

by the city shall not relieve the owner and/or occupant of said lot(s) or premise(s) from prosecution for failure to comply with such notice for violation of § 1-01 and § 1-02.

§ 1-04. Filing of Statement of Expenses

Whenever any work is done by the city under the provisions of this section, the city secretary, on behalf of the city, may file a statement of the expenses incurred thereby with the county clerk of Henderson County. Such statement shall give the amount of such expenses, the name of the owner of such lot or premise, a description of such lot or premise, and the date or dates on which such work was performed and the city shall have a privileged lien. Such lien shall bear 10% interest per annum from the date said statement of expenses was filed. It is further provided that for any such expenditures, and interest as aforesaid, suit may be instituted and recovery and foreclosure of said lien may be had in the name of the city and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

§ 1-05. City Not to be Held Liable

Neither the city nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued or in the abatement of any such violations in compliance with the terms of this section. (Ordinance adopting Code)

§ 2-00. LITTERING

§ 2-01. Definitions

(a) Litter is any quantity of uncontainerized paper, metal, plastic, glass, garbage, refuse, and rubbish and all other solid waste material.

(b) Littering is dumping, throwing, placing, depositing, leaving, or causing to be dumped, thrown, placed, deposited, or left any refuse or waste of any kind or any object of substance which tends to pollute, mar, or deface, unto, upon, or about any public street, highway, alley, road, right-of-way, park, or other public place and private property, but is not limited to the exterior location owned by private individuals, firms, corporations, businesses, institutions, or organizations and shall include yards, grounds, driveways, passageways, parking areas, working areas, storage areas, and vacant lots.

§ 2-02. Littering Prohibited

No person shall throw or deposit litter on any private or public property within this city, whether owned by such person or not; except in authorized trash receptacles for the collection of litter and in such manner that the litter may be prevented from being carried or deposited by the elements upon any street, sidewalk, or other private or public property within the city.

§ 2-03. Placing Litter in Receptacles to Prevent Scattering

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

§ 2-04. Sweeping Litter into Gutter Prohibited

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free from litter.

§ 2-05. Duty of Owner to Keep Property Free of Litter

It shall be unlawful for any owner and/or occupant within the city including persons, firms, corporations, institutions, or businesses to place, deposit, throw, or permit litter to accumulate on any lot or premise located in the city unless the same has been deposited in an authorized receptacle for collection.

§ 2-06. Owner to Remove Litter Upon Notice

It shall be the duty of any owner and/or occupant of any lot or premises within the city limits including any persons, firms, corporations, institutions, or businesses to remove or cause to be removed, all such litter as may be necessary to comply with these provisions hereof. And whenever any such condition as described in § 2-05 hereof, is found to exist on a lot or premises within the city, the owner and/or occupant shall be notified in writing to correct, remedy, or remove the condition within 10 days after such notice is given. Such notice shall either be served personally or by registered mail with a return receipt requested to the last known address of the owner.

If the notice is returned undelivered by the U. S. Postal Service, official action to abate said violation shall be continued to a date not less than 10 days from the date of such return.

§ 2-07. City May Abate Nuisance; Assessment of Lien

In the event the owner and/or occupant including any persons, firms, corporations, institutions, businesses of any lot or premises upon which condition described in § 2-05 is not corrected, remedied, or removed within 10 days after notice to do so is given, the city may do such work at the expense of the city on the account of owners of said premises and pay therefore and charge the expenses incurred to the owner of such lot upon which such expenses are incurred. The doing of such work by the city shall not relieve the owner and/or occupant of said lot(s) or premise(s) from prosecution for failure to comply with such notice for violation of § 2-05.

§ 2-08. Filing of Statement of Expenses

Whenever any work is done by the city under the provisions of this section, the city secretary, on behalf of the city, may file a statement of the expenses incurred thereby with the county clerk of Henderson County. Such statement shall give the amount of such expenses, the name of the owner of such lot or premise, a description of such lot or premise, and the date or dates on which such work was performed and the city shall have a privileged lien. Such lien shall bear 10% interest per annum from the date said statement of expenses was filed. It is further provided that for any such expenditures, and interest as aforesaid, suit may be instituted and recovery and foreclosure of said lien may be had in the name of the city and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

§ 2-09. City Not to be Held Liable

Neither the city nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued or in the abatement of any such violations in compliance with the terms of this section. (Ordinance adopting Code)

§ 3-00. *GARBAGE AND REFUSE REGULATIONS*

§ 3-01. Sanitation Collection Service Required

Every person owning, managing, operating, leasing or renting any premises, or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service.

§ 3-02. Container Required

It shall be the duty of every person subscribing to the sanitation collection service to provide a container or containers for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may accumulate between collections. Garbage containers shall be watertight and constructed of a solid and durable grade of metal, plastic or paper material.

§ 3-03. Placement of Containers

It shall be the duty of every person subscribing to the sanitation collection service to place such garbage containers just behind the curblin of the street abutting such property, but shall in no event be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic. It shall be the responsibility of the subscriber to place the containers no earlier than 6:00 p.m. of the afternoon preceding the collection day.

§ 3-04. Meddling, Pilfering, etc., With Garbage Cans and Other Trash Receptacles Prohibited

The meddling with garbage cans, trash, or rubbish receptacles, or in any way, pilfering, searching, or scattering of contents of such garbage cans or rubbish receptacles in or upon any street or alley within the city limits, is hereby declared to be unlawful.

§ 3-05. Containers to be Kept Sanitary

All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot blow out and scatter the contents over the streets, alleys, or other property within the city.

§ 3-06. Unauthorized Private Collections Prohibited

It shall be unlawful for any person to transport garbage or refuse for hire which has been collected from any premises within the city over any public street within the city;

provided, however, that this subsection shall not apply to any person who, at the time of such activity, is operating under a valid contract or franchise granted by the city which authorizes said person to use the public streets to conduct such activity. (Ordinance adopting Code)

§ 4-00. *FOOD SERVICE ESTABLISHMENTS*

§ 4-01. State Rules on Food Service Sanitation Adopted

The "Rules on Food Service Sanitation 301.73.11.001 - 011" adopted by the Texas Department of Health, Division of Food and Drugs is hereby adopted for the purpose of protecting the public health by establishing uniform requirements for food service operations within the City of Payne Springs. A copy of such rules is on file in the office of the city secretary, and the same is hereby adopted and incorporated as fully as if set out a length herein and the same shall be controlling in the regulation of all food service operations within the city.

§ 4-02. Permits, Licenses, or Certificates

(a) Permits, Licenses, or Certificate Required - No person shall operate a food service establishment who does not have a valid permit, license, or certificate issued to him by the regulatory authority. Only a person, who complies with the requirements of the "Rules on Food Service Sanitation" adopted in § 4-01 hereof, shall be entitled to receive or retain such a permit, license, or certificate. Permits, licenses, or certificates are not transferable. A valid permit, license, or certificate shall be posted in every food service establishment.

(b) Issuance of Permit, License, or Certificate - Any person desiring to operate a food service establishment shall make written application for a permit, license, or certificate, on forms provided by the regulatory authority. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, and the signature of each applicant. Prior to approval of an application for a permit, license, or certificate the regulatory authority shall inspect the proposed food service establishment to determine compliance with the requirements of such "Rules on Food Service Sanitation." The regulatory authority shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of the "Rules on Food Service Sanitation."

(c) Suspension of Permit, License, or Certificate

(1) The regulatory authority may, without warning, notice, or hearing suspend any permit, license, or certificate to operate a food service establishment if the holder of the permit, license, or certificate does not comply with the requirements of the "Rules on Food Service Sanitation," or if the operation of the establishment does not comply with the requirements of such rules, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by paragraph (2) below. When a permit, license, or certificate is suspended, food service operations shall immediately cease. Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate shall be afforded an opportunity for a hearing within 20 days of receipt of request for a hearing.

(2) Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate, or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within 10 days. If no written request for hearing is filed within 10 days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

(d) Revocation of Permit, License, or Certificate - The regulatory authority may, after providing opportunity for a hearing, revoke a permit, license, or certificate for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit, license, or certificate, or the person in charge, in writing of the reason for which the permit, license, or certificate is subject to revocation and that the permit, license, or certificate shall be revoked at the end of the 10 days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within such ten-day period. If no request for hearing is filed within the 10 day period, the revocation of the permit, license, or certificate becomes final.

(e) Service of Notices - A notice provided for in this section is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license, or certificate. A copy of the notice shall be filed in the records of the regulatory authority.

(f) Hearings - The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make a final finding, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license, or certificate by the regulatory authority.

(g) Application after Revocation - Whenever a revocation of a permit, license, or certificate has become final, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.

§ 4-03. Inspections

(a) Inspection Frequency - An inspection of a food service establishment shall be performed as often as is necessary in order to protect the public health and for the enforcement of the "Rules on Food Service Sanitation" adopted by reference in § 4-01 hereof.

(b) Access - Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purpose of making inspections to determine compliance with such rules. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

(c) Report of Inspections - Whenever an inspection of food service establishment or commissary is made, the findings shall be recorded on the inspection report form set out in § 4-03(e). The inspection report form shall summarize the requirements of such rules

and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any persons who requests it according to law.

(d) Correction of Violations

(1) The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(i) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.

(ii) All violations of 4 or 5 point weighted items shall be corrected as soon as possible, but in any event, within 10 days following inspection, the holder of the permit, license, or certificate shall submit a written report to the regulatory authority stating that the 4 or 5 point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.

(iii) All 1 or 2 point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(iv) When rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure corrections.

(v) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.

(2) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the regulatory authority within 10 days following cessation of operations. If a request for a hearing is received, a hearing shall be held within 20 days of receipt of that request.

(3) Whenever a food service establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists. Opportunity for reinspection shall be offered within a reasonable time.

(e) Inspection Report Form - The inspection report form based on the requirements of the "Rules on Food Service Sanitation" is as follows:

Est. I.D. [1-10]	County	Dist.	Est.No.	Census Tract	Sanit.Code	17-22	Yr.	Mo.	Day	Travel Time	Inspec.Time
				11-13	14-16					23-25	26-28

Owner Name: _____ Establishment Name: _____
Address: _____ Zip _____

PURPOSE

Regular 29-1
Follow-up 2
Complaint 3
Investigation 4
Other 5

Food Service Establishment Inspection Report

Based on an inspection this day, the items circled below identify the violations in operations or facilities which must be corrected by the next routine inspection or such shorter period of time as may be specified in writing by the regulatory authority. Failure to comply with any time limits for corrections specified in this notice may result in cessation of your Food Service operations.

ITEM NO.		WT	COL
FOOD			
*01	Source; sound condition, no spoilage	5	30
02	Original container; properly labeled	1	31

ITEM NO.		WT	COL
FOOD PROTECTION			
*03	Potentially hazardous food meets temperature requirements during storage, preparation, display, service transportation	5	32
*04	Facilities to maintain product temperature	4	33
05	Thermometers provided and conspicuous	1	34
06	Potentially hazardous food properly thawed	2	35
*07	Unwrapped and potentially hazardous food not re-served	4	36
08	Food protection during storage, preparation, display, service, transportation	2	37
09	Handling of food (ice) minimized	2	38
10	In use, food (ice) dispensing utensils properly stored	1	39

ITEM NO.		WT	COL
PERSONNEL			
*11	Personnel with infections restricted	5	40
*12	Hands washed and clean, good hygienic practices	5	41
13	Clean clothes, hair restraints	1	42

ITEM NO.		WT	COL
FOOD EQUIPMENT & UTENSILS			
14	Food (ice) contact surfaces: designed, constructed, maintained, installed, located	2	43
15	Non-food contact surfaces: designed, constructed, maintained, installed, located	1	44
16	Dishwashing facilities: designed, constructed, maintained, installed, located, operated	2	45
17	Accurate thermometers, chemical test kits provided, gauge cock (1/4" IPS valve)	1	46
18	Pre-flushed, scraped, soaked	1	47
19	Wash, rinse water: clean, proper temperature	2	48
*20	Sanitization rinse: clean, temperature, concentration, exposure time; equipment, utensils sanitized	4	49
21	Wiping cloths: clean, use restricted	1	50
22	Food-contact surfaces of equipment and utensils clean, free of abrasives, detergents	2	51
23	Non-food contact surfaces of equipment and utensils clean	1	52
24	Storage, handling of clean equipment/utensils	1	53
25	Single-service articles, storage, dispensing	1	54
26	No re-use of single service articles	2	55

ITEM NO.		WT	COL
WATER			
*27	Water source, safe: hot & cold under pressure	5	56

ITEM NO.		WT	COL
SEWAGE			
*28	Sewage and waste water disposal	4	57

ITEM NO.		WT	COL
PLUMBING			
29	Installed, maintained	1	58
*30	Cross-connection, back siphonage, backflow	5	59

ITEM NO.		WT	COL
TOILET & HANDWASHING FACILITIES			
*31	Number, convenient, accessible, designed, installed	4	60
32	Toilet rooms enclosed, self-closing doors, fixtures, good repair, clean; hand cleanser, sanitary towels/tissues/hand-drying devices provided, proper waste receptacles	2	61

ITEM NO.		WT	COL
GARBAGE & REFUSE DISPOSAL			
33	Containers or receptacles, covered; adequate number insect/rodent proof, frequency, clean	2	62
34	Outside storage area enclosures properly constructed, clean; controlled incineration	1	63

ITEM NO.		WT	COL
INSECT, RODENT, ANIMAL CONTROL			
*35	Presence of insects/rodents — outer openings protected, no birds, turtles, other animals	4	64

ITEM NO.		WT	COL
FLOORS, WALLS & CEILINGS			
36	Floors, constructed, drained, clean, good repair, covering installation, dustless cleaning methods	1	65
37	Walls, ceiling, attached equipment: constructed, good repair, clean, surfaces, dustless cleaning methods	1	66

ITEM NO.		WT	COL
LIGHTING			
38	Lighting provided as required, fixtures shielded	1	67

ITEM NO.		WT	COL
VENTILATION			
39	Rooms and equipment — vented as required	1	68

ITEM NO.		WT	COL
DRESSING ROOMS			
40	Rooms clean, lockers provided, facilities clean, located	1	69

ITEM NO.		WT	COL
OTHER OPERATIONS			
*41	Toxic items properly stored, labeled, used	5	70
42	Premises maintained free of litter, unnecessary articles, cleaning maintenance equipment properly stored. Authorized personnel	1	71
43	Complete separation from living/sleeping quarters, Laundry	1	72
44	Clean, soiled linen properly stored	1	73

FOLLOW-UP

Yes 74-1
No 2

RATING SCORE 75-77

100 less weight of items violated →

Type of Est.

78-80

Received by: name _____
title _____
Inspected by: name _____
title _____

ITEM NO.	REMARKS	CORRECTED BY

§ 4-04. Examination and Condemnation of Food

Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of the "Rules on Food Service Sanitation" adopted by reference in § 4-01 hereof. The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of subsection (a) of rule .003 or any other provision of such rules. The regulatory authority shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The regulatory authority shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within 10 days and if no hearing is requested, the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of such rules.

§ 4-05. Review of Plans

(a) Submission of Plans - Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of the "Rules on Food Service Sanitation" adopted by reference in subsection § 4-01 hereof. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.

(b) Pre-Operational Inspection. - Whenever plans and specifications are required by paragraph (a) above to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of such rules.

§ 4-06. Procedure When Infection Is Suspected

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (a) The immediate exclusion of the employee from all food service establishments;
- (b) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
- (c) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(d) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

§ 4-07. Remedies

(a) Penalties - Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than one thousand dollars (\$1,000.00) for each offense.

(b) Injunctions - The regulatory authority may seek to enjoin violations of these such rules. (Ordinance adopting Code)