

ORDINANCE NO. 01-865

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, ESTABLISHING THE MEMBERSHIP, QUALIFICATIONS, APPOINTMENT, AND TERM OF OFFICE FOR MEMBERS OF THE PLANNING COMMISSION; PROVIDING PROCEDURES GOVERNING THE PLANNING COMMISSION; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY

WHEREAS, Chapter 212, "Municipal Regulation of Subdivisions and Property Development," of the Texas Local Government Code provides for the establishment of a City Planning Commission;

WHEREAS, should the City adopt a zoning ordinance, Chapter 211, "Regulations of Land Use, Structures, Businesses, and Related Activities," of the Texas Local Government Code provides that the City Planning Commission may be appointed as the Zoning Commission;

WHEREAS, although a Planning Commission currently exists for the City of Fulshear, the Mayor and City Council wish to make new appointment or, to reappoint current members, as well as to adopt new procedures to govern the operation of the Planning Commission; and

WHEREAS, the City Council intends for the Planning Commission to carry out the duties authorized by state law and to function in accordance with the provisions of this Ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:**

**Section 1.** The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

**Section 2. The Planning Commission.** The City Council of the City of Fulshear, Texas, hereby ratifies the prior formation and existence of the City of Fulshear Planning Commission, which shall be known and referred to as the Planning Commission. In the event that the City Council considers adoption of and subsequently adopts a zoning ordinance,

the Planning Commission shall also act as the City's Zoning Commission, and shall thereafter be referred to as the Planning and Zoning Commission.

**Section 3. Duties of Planning Commission.** At the direction of City Council, and consistent with the laws of the State of Texas, the Planning Commission shall have the duty and responsibility to:

A. Make studies and project plans for the improvement of the city with a view to its future development and possible extension, so as to ensure orderly growth of the city with equitable interest to both the private and public sectors.

B. Act with and assist the City Council in formulating and executing proper plans of municipal development.

C. Investigate, consider, and recommend to the City Council prior to approval of same all of the preliminary and final plats of new subdivisions within the city or its extraterritorial jurisdiction, and to perform all duties imposed upon city planning commissions by state statutes.

D. Recommend plans to the City Council for improving, developing, expanding, and beautifying the parks, parkways, and water ways in or adjoining the city, and to cooperate with the City Council in developing, establishing, locating, improving, selecting, expanding and maintaining public parks, parkways, playgrounds and places for public recreation.

E. Investigate and consider the issues stemming from possible annexation and disannexation as may be required by City Council.

F. Make recommendations to City Council concerning traffic regulation and control.

G. Generally investigate, consider and recommend to the City Council all matters for the development and advancement of the city's physical layout and appearance.

H. Perform such other duties as may from time to time be delegated to the Planning Commission by the City Council.

**Section 4. Membership, Appointment, Term of Office, Meetings.**

A. **Membership.** The Planning Commission shall be composed of eight (8) members, each of whom shall be, at the time of appointment and at all other times while

serving as a member of such commission, resident citizens of and/or owners of real property within the City of Fulshear, Texas, or its extraterritorial jurisdiction.

B. Appointment and Term of Office. The Mayor shall appoint, subject to approval by the City Council, the members of the Planning Commission. Of the eight (8) members appointed on January 17, 2001, in conjunction with the adoption of this Ordinance, four (4) members shall serve for a term ending December 31, 2001, while the remaining four (4) members shall serve for a term ending December 31, 2002. To determine which members will serve the approximately one (1) year terms and which will serve the (2) two year terms, each member shall draw a lot designating either a one or two year term. Thereafter, appointments to the Planning Commission shall be made at the expiration of each term and each appointment shall be for a two (2) year term. Planning Commission members so appointed and approved shall serve in such capacity for a period of not more than two (2) years, but may be reappointed, subject to approval by City Council, following each term of service. Vacancies for the unexpired terms of any member whose position becomes vacant shall be filled by appointment by the Mayor, subject to approval by the City Council. Newly selected members shall be duly sworn and installed at the earliest possible Planning Commission meeting or City Council meeting after their appointment. Members of the Planning Commission shall serve without compensation.

Members shall serve at the pleasure of the Mayor and are subject to removal by the Mayor at any time, with or without cause, subject to a concurrence by the City Council. Members shall have no expectation of continued service either in the position or on the Planning Commission. A member who is absent from three (3) consecutive meetings of the Planning Commission shall be subject to removal.

C. Meetings. The Planning Commission shall meet monthly as business shall require and shall designate the date, time, and place of its meetings. It shall hold such special meetings as shall be called by the chairman or a majority of its members.

**Section 5. Procedures.**

A. Quorum and Vote. Each Planning Commission member in attendance at a duly called and noticed meeting may vote. All matters to be heard by the Planning Commission shall be considered by a minimum of five (5) members, which shall be the

quorum necessary for conducting a meeting. The concurring vote of a majority of the members in attendance shall be necessary for the passage of any motion.

B. Organization. The Mayor shall appoint a chairman and vice chairman of the Planning Commission from its membership. The Planning Commission shall elect a secretary from among its members. These members shall serve in such capacities concurrent with their period of service.

C. Rules. In addition to statutory requirements, the following rules shall govern the Planning Commission:

1. The Planning Commission shall comply with the applicable open meetings and open records laws and shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be promptly filed in the office of the City Secretary.

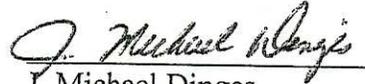
2. The Planning Commission shall report to City Council annually and from time to time as directed by the Mayor.

**Section 6.** Fees. Matters submitted for consideration to the Planning Commission shall not be accepted for filing unless the applicant shall have paid to the City the appropriate filing fee in an amount to be determined from time to time by the City Council.

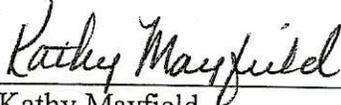
**Section 7.** Repealer. City of Fulshear Ordinance No. 605, adopted the 15<sup>th</sup> day of August, 1983, is hereby repealed, and all other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

**Section 8.** Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this the 17 day of January, 2001.

  
J. Michael Dinges  
Mayor

ATTEST:

  
Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-866

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 5, 2001, FOR THE PURPOSE OF ELECTING THREE (3) ALDERMEN; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election is hereby called and ordered for the first Saturday in May 2001, the same being the 5th day of said month, at which election all qualified voters of the City may vote for the purpose of electing three (3) Aldermen.

Section 2. No person's name shall be placed upon the official ballot as a candidate for Alderman unless such person shall have filed his or her sworn application, as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City Offices, located at 30603 F.M. 1093, Fulshear, TX 77441, not later than five o'clock (5:00) p.m. on the forty-fifth (45th) day before the date of such election. The City Secretary shall note on the face of each such application the date and time of its filing.

Section 3. The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

**POLLING PLACE**

City Hall

City of Fulshear

30603 F.M. 1093

Fulshear, Texas 77441

**ELECTION OFFICERS**

Sandra DeVore      Presiding Judge

JoMarie Showers      Alternate Presiding Judge

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment, as required by Section 32.009 of the TEXAS ELECTION CODE.

The Presiding Judge shall appoint no more than one (1) clerk to assist in the holding of said election. Said election officers shall also serve as the early voting ballot board for such election; and the Presiding Judge of the election precinct shall also serve as the presiding officer of such board. The hourly rate of pay shall be \$6.00 and each election officer shall not exceed fourteen (14) hours.

Section 4.      Mrs. Kathryn Mayfield, City Secretary, is hereby appointed clerk for early voting; the appointment of a deputy clerk or clerks for such voting by the City Secretary shall be in accordance with Sections 83.031 *et seq.* of the TEXAS ELECTION CODE.

The City Hall

City of Fulshear

30603 F.M. 1093

is hereby designated as the place for early voting for said election. Said clerks shall keep said office open for at least eight (8) hours, that is, from nine o'clock (9:00) a.m. until five o'clock (5:00) p.m., on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the seventeenth (17th) day and continuing through the fourth (4th) day preceding the date of said election. Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the TEXAS ELECTION CODE, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5. Paper ballots shall be used for early voting and for voting on election day, in accordance with the TEXAS ELECTION CODE. All expenditures necessary for the conduct of the election, purchase of materials, and the employment of all election officials are hereby authorized in accordance with the TEXAS ELECTION CODE.

Section 6. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 7. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office, at least seventy-two (72) hours prior to the date on which the drawing is to be held, of the time and place of the drawing,

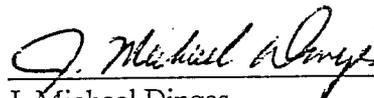
and shall also give personal notice to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by such candidate, shall have a right to be present and observe the drawing.

Section 8. The three (3) candidates receiving the highest number of votes for Alderman shall be declared elected.

Section 9. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The City Secretary, in compliance with Section 23.023(c) of the TEXAS LOCAL GOVERNMENT CODE, shall post notice of said election for at least twenty (20) days preceding the date of the election in at least three (3) public places within the municipal limits. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 10. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.



J. Michael Dinges  
Mayor

ATTEST:



Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-867

AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON MAY 5, 2001, FOR THE PURPOSE OF ELECTING THREE (3) ALDERMEN TO THE CITY COUNCIL OF THE CITY OF FULSHEAR.

\* \* \* \* \*

WHEREAS, a general election was held in the City of Fulshear, Texas, on May 5, 2001, for the purpose of electing three (3) Aldermen; and

WHEREAS, said election was duly and legally held in conformity with the election laws of the State of Texas, and the results of said election have been verified and returned by the proper judges and clerks; and

WHEREAS, it appears that a total of 98 votes were cast in such election; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The official canvass of the returns of the general election held on May 5, 2001, reflects that the following named persons received the number of votes set opposite their:

<u>Candidate Name</u>	<u>Votes</u>
J. B. Collins, Jr.	80
Gloria Banks Simmons	33
Bill Archer	63
James G. Kane	11
Robert Fox	60

Section 3. In accordance with the official canvass of the returns of the general

election held on May 5, 2001, the following persons were duly elected:

J.B. Collins, Jr.

Bill Archer

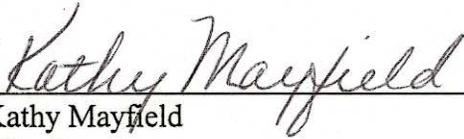
Robert Fox

PASSED, APPROVED, AND ADOPTED this 9th day of May 2001.



J. Michael Dinges  
Mayor

ATTEST:



Kathy Mayfield  
City Secretary

**ORDINANCE NO. 01-868**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, AMENDING ORDINANCE NO. 00-864, AS ORIGINALLY PASSED ON DECEMBER 13, 2000, BY EXTENDING THE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR AND THE ISSUANCE OF BUILDING PERMITS, DEVELOPMENT PERMITS, SUBDIVISION PLATS, AND OTHER DEVELOPMENT RELATED APPLICATIONS, FOR AN ADDITIONAL SIX MONTHS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Fulshear, Texas (the "City"), recognizing the right of land development within the City's corporate limits and extraterritorial jurisdiction, and also recognizing the need to protect the balance of land uses within the City and the health, safety, and welfare of the citizens of the City; and

**WHEREAS**, the Planning Commission of the City is continuing its evaluation of the City's current land development regulations and is working expeditiously to come to a consensus on recommendations and to make a report of such recommendations to the City Council as soon as practicable; and

**WHEREAS**, the City Council finds that it is in the public interest to extend the moratorium adopted by City Council in Ordinance No. 00-864, on December 13, 2000, for a period of six (6) months, and to continue to preserve the status quo by not accepting applications for building permits, development permits, subdivision plats, and other development related applications pending a full and complete review and analysis by the Planning Commission; and

**WHEREAS**, the City Council finds that such extension is for the purposes of allowing a more complete study of land development regulations and is not for the purposes of delay, now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:**

Section 1. That the moratorium on the acceptance of building permits, development permits, subdivision plats, and other development related applications, as specified in Ordinance No. 00-864, as passed and approved on December 13, 2000, is hereby extended for an additional six (6) months, and shall expire on December 14, 2001.

Section 2. That the Planning Commission and City staff are hereby directed to complete the appropriate analyses, evaluate alternatives, and to prepare recommendations as to the appropriate development regulations or amendments to the City's current development regulations, in accordance with state law, and based on the City's future land use plan, adjacent land development patterns, and other relevant information, and report their recommendations to City Council on or before September 14, 2001.

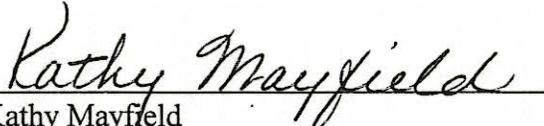
Section 3. All other provisions of Ordinance No. 00-864 shall remain in full force and effect.

Section 4. An emergency exists for the immediate preservation of the public health and safety and general welfare, which requires this Ordinance to take effect immediately from and after its passage, within the provisions of state law, and it is accordingly so ordained.

PASSED, APPROVED, AND ADOPTED this 20 day of JUNE,  
2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-869

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, MAKING CERTAIN FINDINGS CONCERNING TWO (2) ROADWAY INTERSECTIONS WITHIN THE CITY; DETERMINING THAT THE STOP SIGNS LOCATED ON BOIS D'ARC AT ITS INTERSECTIONS WITH LEA LANE AND RED BIRD LANE BE REMOVED; DIRECTING REMOVAL OF SUCH STOP SIGNS AT SUCH INTERSECTIONS ON BOIS D'ARC; PROVIDING A PENALTY OF AN AMOUNT OF NOT LESS THAN \$1.00 NOR MORE THAN \$200 FOR VIOLATION HEREOF; AND PROVIDING A SEVERABILITY CLAUSE.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The stop signs located on Bois D'Arc Street at its intersections with Lea Lane and Red Bird Lane within the City of Fulshear, Texas, are hereby ordered removed.

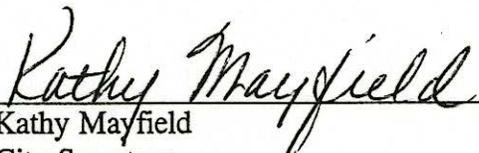
Section 2. The Mayor is hereby authorized and directed to cause the removal of the stop signs at the intersections described in Section 1.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, and ADOPTED this 20 day of JUNE, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-870

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, ESTABLISHING A MAXIMUM PRIMA FACIE SPEED LIMIT OF TWENTY (20) MILES PER HOUR ON WALKER LANE WITHIN THE CITY; PROVIDING FOR THE PLACEMENT OF SIGNS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING A PENALTY OF AN AMOUNT OF NOT LESS THAN ONE DOLLAR (\$1.00) NOR MORE THAN TWO HUNDRED DOLLARS (\$200.00) FOR VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Based upon an engineering and traffic investigation, the maximum prima facie speed limit on Walker Lane within the City of Fulshear, Texas, shall be twenty (20) miles per hour. It shall be unlawful for any person to drive a motor vehicle at a speed in excess of such maximum prima facie speed limit when signs are in place giving notice thereof.

Section 2. The Mayor is hereby authorized and directed to erect or cause to be erected appropriate signs giving notice of the maximum prima facie speed limit established in Section 1.

Section 3. All other ordinances or parts of ordinances in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed.

Section 4. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00).

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City

Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 20 day of JUNE, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-871

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, MAKING CERTAIN FINDINGS CONCERNING ONE (1) ROADWAY INTERSECTION WITHIN THE CITY; DETERMINING THAT THE STOP SIGNS LOCATED ON BOIS D'ARC LANE AT ITS INTERSECTION WITH METROPOLITAN TRANSIT RAIL LINES BE REMOVED; DIRECTING REMOVAL OF SUCH STOP SIGNS AT SUCH INTERSECTION ON BOIS D'ARC LANE; PROVIDING A PENALTY OF AN AMOUNT OF NOT LESS THAN \$1.00 NOR MORE THAN \$200 FOR VIOLATION HEREOF; AND PROVIDING A SEVERABILITY CLAUSE.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The stop signs located on Bois D'Arc Lane at its intersection with Metropolitan Transit Rail Lines within the City of Fulshear, Texas, are hereby ordered removed.

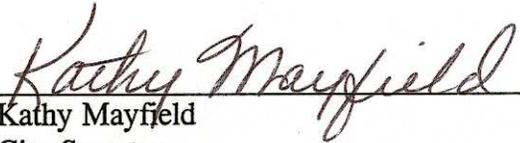
Section 2. The Mayor is hereby authorized and directed to cause the removal of the stop signs at the intersections described in Section 1.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, and ADOPTED this 18 day of July, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

ORDINANCE NO. 01-872

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, NAMING CERTAIN PUBLIC STREETS, LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY, AND WHICH COMMENCE AT THE NORTH END OF DIXON ROAD, "PATTERSON ROAD" AND "HIDDEN TRAILS ROAD."

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

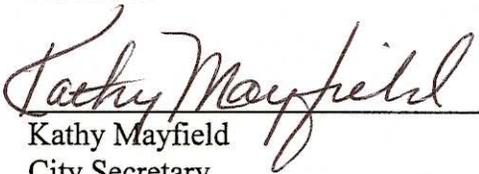
Section 1. That certain public streets located within the corporate boundaries of the City of Fulshear, Texas, and which commence at the north end of Dixon Road and, which are more particularly described at Attachment "A," are hereby named and shall be known as "Patterson Road" and "Hidden Trails Road."

Section 2. The City Secretary of the City is hereby authorized and directed to file this Ordinance in the real property records of Ft. Bend County, Texas, and to mail a copy of this Ordinance to the United States Post Office, City of Fulshear, Texas.

PASSED, APPROVED, AND ADOPTED this 15 day of August, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

## ATTACHMENT A

LEGAL DESCRIPTION OF A 60 FOOT WIDE CITY STREET, PATTERSON LANE, LOCATED IN THE CHURCHILL FULSHEAR LEAGUE, ABSTRACT 29, CITY OF FULSHEAR; FORT BEND COUNTY, TEXAS.

The centerline of said 60 foot street is described below with the street right-of-way lines being located 30 feet North and South of the centerline:

Beginning at the intersection of the centerline of Dixon Road (60 foot city street) and the centerline of this street (Patterson Lane); said point being located North approximately 1650 feet along the centerline of Dixon Road from the intersection with Houston Street and Huggins Road;

THENCE: Following the centerline of the gravel street approximately North 60° East a distance of approximately 250 feet to a bend in the street;

THENCE: Following the centerline of the gravel street East approximately 300 feet to the end of Patterson Lane.

## ATTACHMENT A

LEGAL DESCRIPTION OF A 60 FOOT WIDE CITY STREET, HIDDEN TRAILS, LOCATED IN THE CHURCHILL FULSHEAR LEAGUE, ABSTRACT 29, CITY OF FULSHEAR; FORT BEND COUNTY, TEXAS.

The centerline of said 60 foot street is described below with the street right-of-way line being located 30 feet North and South of the centerline:

Beginning at the intersection of the centerline of Dixon Road (60 foot city street) and the centerline of this street (Hidden Trails); said point being located North approximately 2200 feet along the centerline of Dixon Road from its intersection with intersections of Houston Street and Hugging Road;

THENCE: West following the centerline of the gravel street approximately 500 feet to the end of Hidden Trails.

ORDINANCE NO. 01-873

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FULSHEAR, TEXAS, GENERAL BUDGET FOR THE FISCAL YEAR 2002; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

\* \* \* \* \*

WHEREAS, within the time and in the manner required by law, the Mayor presented to the City Council a proposed general budget of expenditures of the City of Fulshear for the 2001-2002 fiscal year; and

WHEREAS, pursuant to a motion of the City Council and after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the Town Hall of the City of Fulshear, 30603 F.M. 1093, on the 19th day of September 2001, at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The City Council hereby approves and adopts the general budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget an endorsement, which shall be signed by the City Secretary, which shall read as follows:

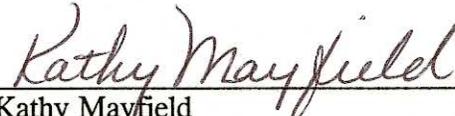
"The Original General Budget of the City of Fulshear, Texas, for the Fiscal Year 2001-2002."  
Such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 3. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

PASSED, APPROVED, AND ADOPTED this 19th day of September 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

John Smart - Mayor Pro-Tem -	<u>X</u> Yes
Charles Herron - Council Member -	<u>X</u> Yes
J B Collins, Jr. - Council Member -	<u>X</u> Yes
Robert Fox - Council Member -	<u>X</u> Yes
Bill Archer - Council Member -	<u>X</u> Yes

ORDINANCE NO. 01-874

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY, AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF FULSHEAR, TEXAS, FOR THE YEAR 2001 AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED; PROVIDING THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

\* \* \* \* \*

WHEREAS, pursuant to Section 26.05 of the Texas Property Tax Code, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of said tax rate ordinance have been timely and properly given and held; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. All property subject to ad valorem taxation by the City of Fulshear, Texas, shall be equally and uniformly assessed for such purposes at One Hundred Percent (100%) of the fair market value of such property.

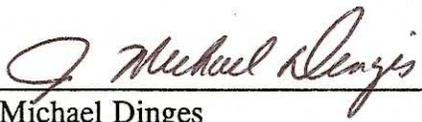
Section 3. There is hereby levied for general purposes and use by the City of Fulshear, Texas, for the year 2001, and for each year thereafter until otherwise provided, an ad valorem tax at the rate of Forty and 208/1000 Cents (\$.40208) on each One Hundred Dollars (\$100) of assessed valuation on all property, real, personal, and mixed, within the corporate limits upon which an ad valorem tax is authorized by law to be levied by the City of

Fulshear, Texas. The proceeds from such tax shall be applied to the payment of the general and current expenses of the government of the City. All such taxes shall be assessed and collected in current money of the United States of America.

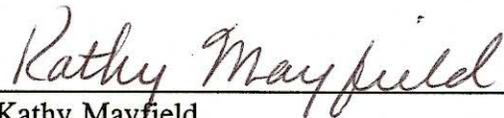
Section 4. All ad valorem taxes levied hereby, as reflected by Section 3 hereof, shall be due and payable on or before January 31, 2002. All ad valorem taxes due the City of Fulshear, Texas, and not paid on or before January 31 following the year for which they were levied shall bear penalty and interest as prescribed in the Property Tax Code of the State of Texas.

Section 5. All ordinances and parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED this 19th day of September 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

**John Smart - Mayor Pro-Tem -  X  Yes**  
**Charles Herron - Council Member -  X  Yes**  
**J. B. Collins, Jr. - Council Member -  X  Yes**  
**Robert Fox - Council Member -  X  Yes**  
**Bill Archer - Council Member -  X  Yes**

ORDINANCE NO. 01-875

AN ORDINANCE AMENDING CITY OF FULSHEAR, TEXAS, ORDINANCE NO. 92-802, PASSED AND APPROVED THE 4TH DAY OF FEBRUARY 1992, BY STRIKING ALL OF PARAGRAPH 2 OF SUBSECTION C OF SECTION 10 THEREOF AND SUBSTITUTING THEREFOR A NEW PARAGRAPH 2; PROVIDING THAT THE BULK WATER RATE SHALL BE \$5.00 PER 100 GALLONS; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. City of Fulshear, Texas, Ordinance No. 92-802, passed and approved the 4th day of February 1992, is hereby amended by striking all of paragraph 2 of subsection C of Section 10 thereof and substituting therefor a new paragraph 2, which shall read as follows:

“2. Bulk Rate for Water: \$5.00 per 100 gallons

Section 2. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19 day of September 2001.

J. Michael Dinges  
J. Michael Dinges  
Mayor

ATTEST:

Kathy Mayfield  
Kathy Mayfield  
City Secretary

John Smart - Mayor Pro-Tem -	<u>X</u> Yes
Charles Herron - Council Member -	<u>X</u> Yes
J B Collins, Jr. - Council Member -	<u>X</u> Yes
Robert Fox - Council Member -	<u>X</u> Yes
Bill Archer - Council Member -	<u>X</u> Yes

ORDINANCE NO. 01-876

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING RULES AND REGULATIONS GOVERNING THE USE AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY WITHIN THE CITY; PROVIDING STANDARDS FOR CONSTRUCTION AND MAINTENANCE OF FACILITIES WITHIN SAID PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ISSUANCE OF PERMITS; PROVIDING FOR THE FILING AND MAINTENANCE OF BONDS AND INSURANCE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; REPEALING ALL ORDINANCES OR PARTS OR ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

WHEREAS, pursuant to § 311.002, Texas Transportation Code, as amended, the City of Fulshear, Texas (the "City"), has exclusive dominion, control and jurisdiction over its public streets, highways, alleys, and other public ways; and

WHEREAS, the City Council hereby finds and determines that the adoption of regulations governing the placement of facilities within public rights-of-way is necessary to avoid congestion, inconvenience, visual blight, economic waste, and other adverse effects to such rights-of-way; and

WHEREAS, the City Council hereby further finds and determines that conserving the limited physical capacity of the public rights-of-way held in trust by the City is critical to the future provision of services to the general public by the City and others that use such rights-of-way; and

WHEREAS, the City desires to assure that users of the public rights-of-way comply with applicable ordinances, rules and regulations of the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Findings. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Definitions. For the purposes of this Ordinance the following words, terms, and phrases shall have the meanings ascribed thereto, unless the context of their usage clearly indicates otherwise.

2.01 "City" shall mean the City of Fulshear, Texas, a general law municipal corporation of the State of Texas.

2.02 "City Council" shall mean the governing body of the City.

2.03 "Emergency" shall mean a situation which, unless immediate remedial action is taken, will likely result in harm to public health, safety, and/or welfare.

2.04 "Facilities" or "Facility" shall mean and include, but shall not be limited to, pipes, conduits, wires, cables, towers, switches, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, fixtures, appurtenances, and such other objects, devices, or other items of tangible personal property, which are designed, constructed, installed, placed, used or operated in, upon, over, across, above, or below public rights-of-way. Notwithstanding the foregoing, structures designed and constructed for the support and passage of vehicular and pedestrian traffic, such as streets, alleys, highways, driveways, and sidewalks, whether at, below, or above grade, shall not be deemed to be Facilities. Provided further, a private, individually owned, connection and/or attendant downstream service line or device, through which a utility service is received by the end user owning same, for which required permits have been issued under applicable building, plumbing, electrical, or other codes of the City, shall not be deemed as Facilities hereunder.

2.05 "Person" shall mean an individual, corporation, association, partnership, joint venture, firm, limited liability partnership, joint stock company, association, governmental entity other than City, or any other public or private entity.

2.06 "Public Rights-of-Way" or "Public Right-of-Way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property within the corporate limits of the City, and in which the City holds a property interest (fee title, easement or otherwise), or over which the City holds and exercises a right of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of Facilities.

2.07 "User" shall mean a Person having Facilities within a Public Right-of-Way.

**Section 3. Unauthorized Use of Public Rights-of-Way Prohibited.** Except as otherwise specifically provided by law, this Ordinance, or any other ordinance of the City applicable thereto, it shall be unlawful for any Person to cause or permit the placement, construction, operation or maintenance of any Facility within Public Rights-of-Way, unless authorization has been granted by the City in accordance herewith or in accordance with such other ordinance of the City applicable thereto.

**Section 4. Registration Required.** It shall be unlawful for any Person to place Facilities within Public Rights-of-Way without having first filed with the City an application for registration therefor. Applications for registration shall be filed with the City Secretary of the City. The City Secretary shall issue a registration certificate to each Person successfully completing and filing such application. Each registration certificate shall be issued in the name of the User. Registration certificates shall be renewed every sixty (60) months. When information provided in an application for a registration certificate is no longer correct, the User shall inform the City, in writing, within thirty (30) days following the date of such change. Each application for registration shall include:

- (i) The name and legal status of the User;
- (ii) The name, address, telephone number, e-mail address, and fax number of the individual(s) who will be the contact(s) for the User;
- (iii) The name, address, telephone number, e-mail address, and fax number of the individual(s) who will be the contact(s) for field location of Facilities;
- (iv) The name, address, telephone number, email address and fax number of an emergency contact who shall be available twenty-four (24) hours a day; and
- (v) Proof of insurance and bonding, as otherwise required herein.

**Section 5. Construction Within Public Rights-of-Way.** It shall be unlawful for any Person to cause or permit the construction or installation of Facilities within Public Rights-of-Way within the City, except as provided by this Ordinance and any other ordinance of the City applicable thereto.

**Section 6. Construction Regulations.**

**6.01 Excavations.** All excavations and other construction in the Public Rights-of-Way shall be performed in accordance with all applicable state, federal, and City regulations.

**6.02 Interference with Use of Property.** All construction within Public Rights-of-Ways shall be undertaken so as to minimize interference with the use of public and private property and in accordance with any lawful direction given by the City under the police and regulatory powers of the City.

**6.03 Construction Permits.** It shall be unlawful for any Person to cause or permit any work which involves the construction, installation, expansion, repair, removal, or maintenance of Facilities within Public Rights-of-Way without having first applied for and obtained from the City a construction permit therefor. Provided, however, acquisition of construction permits shall not be required for any such work that does not involve the

alteration or disturbance of the surface of the Right-of-Way. Each construction permit application shall include a written work description, including construction drawings, showing the Facilities' location (or proposed location) and the estimated depth of the Facilities (existing and proposed) in the immediate area of the proposed new construction. Such drawings shall be reviewed by the City and, if disapproved, returned with comments setting forth the reasons for such disapproval. Approvals shall not be unreasonably withheld or delayed. Except as otherwise specifically provided herein, work shall not commence until applicable construction permits have been approved therefor. Review and approval by the City of construction permits as provided herein shall not constitute any representation or warranty regarding the sufficiency of design or construction of such Facilities. All such work shall be in conformance with the approved construction permit.

Work for which a permit is required may be performed at any time; provided however, any such permitted work performed within five hundred feet (500') of any residential structure may only be performed between the hours of 6:00 a.m. and 10:00 p.m. Any permitted work performed outside of the above working hours must be approved in advance by the Mayor or his/her designee.

Provided further, all such construction and/or installation work shall be completed in the time specified in the construction permit. If the work cannot be completed within the specified time period, the User may request an extension from the Mayor or his/her designee, which extension shall not be unreasonably withheld.

**6.04 Emergency Repairs; Restoration of Service.** Notwithstanding the foregoing Section 6.03, during an Emergency where, in the good faith judgment of the User, failure to act immediately could jeopardize public health, safety, or general welfare, or in situations where a repair is necessary to restore service to a customer, such User may perform repairs to Facilities within Public Rights-of-Way, which involve the alteration or disturbance of the surface of such Public Right-of-Way, without prior notification to, or acquisition of, a construction permit from, the City. In such cases, the User shall notify the Mayor or his/her designee as promptly as possible after beginning the work, but in no event later than the close of business on the next business day, stating the nature of such repairs and, if not completed, the length of time estimated to complete same. The User shall apply for the required approvals as soon as reasonably practicable, and any work performed that is not consistent with then applicable City standards shall be corrected upon notice thereof from the City.

**6.05 Restoration of Surface.** Users may excavate Public Rights-of-Way only for the purpose of, and to the extent reasonably required for, the construction, installation, expansion, repair, removal, or maintenance of its Facilities. Upon completion of work, the User shall promptly restore the surface of the affected Public Right-of-Way to a condition that equals or exceeds its condition prior to such construction. To such end, the restoration shall comply with the following requirements:

- (a) replacing all ground cover equal to or better than the type of ground cover damaged during work, either by sodding, seeding, or hydromulching.;

- (b) installation of all manholes and handholes as required;
- (c) all bore pits, potholes; trenches or any other holes shall be filled in or covered daily, unless other safety requirements are approved by the Mayor or his/her designee;
- (d) leveling of all trenches and backhoe lines;
- (e) restoration of excavation site to City specifications; and
- (f) restoration of all landscaping and other affected structures such as sprinkler systems and mailboxes.
- (g) repair of any City roads damaged during construction;

**6.06 Maintenance Period; Delay in Construction.** All restoration work shall be maintained by the User to the satisfaction of City for a period of one (1) year from the date of completion of such restoration work. No Public Right-of-Way shall be encumbered by construction, maintenance, removal, restoration, or repair work for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by the User in restoring and maintaining the Public Right-of-Way or restoring such Public Right-of-Way after such excavations, construction, installation or repairs have been made, the City shall notify the User in writing that if such restoration or maintenance is not performed within five (5) days of receipt of such notice, the City shall have the right to restore or repair the same and to require the User to pay the reasonable cost of such restoration or repair. Furthermore, if restoration is not satisfactory and performed in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete.

**6.07 Routine Maintenance.** Routine maintenance on Facilities located within Public Rights-of-Way shall be conducted in a manner that is consistent with applicable City regulations governing such work, if any.

**6.08 Obstructions to Traffic.** Any obstruction of vehicular or pedestrian traffic resulting from construction or repair activities to Facilities, other than for emergency repairs, shall require prior notification to the Mayor of his/her designee of the City. Any such work shall be performed in a manner calculated to cause the least inconvenience to the City and the public as is reasonably possible under the circumstances. When a User performs or causes to be performed any work over or across a public street or sidewalk, or so closely adjacent thereto as to create hazards for the public or itself, the User shall provide construction and maintenance signs and sufficient barricades and flagmen at such sites as are reasonably necessary to protect the public and the User's equipment and workers. The application of such traffic control devices shall be consistent with the standards and provisions of the latest edition of the Texas Manual on Uniform Traffic Control Devices. Appropriate warning lights shall be used at all construction and maintenance zones where one or more traffic lanes are being obstructed during nighttime conditions.

**6.09 Closing of Streets.** If a User's work requires the obstruction of any street for a period longer than thirty (30) minutes, such obstruction shall be approved by the Mayor or his/her designee, which approval may be conditioned on adequate traffic control measures. The User shall not close any public street, but shall at all times maintain a route of

travel along and within any roadway that is within a Public Right-of-Way; provided however, in cases of an emergency, the Mayor or his/her designee may authorize the temporary closing of a public street or sidewalk to allow the User to complete such emergency repairs if, in the opinion of the Mayor or his/her designee, such closing is necessary to protect the safety of the general public.

**6.10 Construction Drawings.** Within one hundred twenty (120) days following completion of construction, or within one hundred twenty (120) days following any material alteration or modification thereto, the User shall supply the City with a complete set of construction drawings for the work, or for the material alteration or modification thereof, unless the User certifies to the City, in writing, that such construction was completed in accordance with the construction plans filed pursuant to Section 6.03 above, in which case, such construction plans shall be marked accordingly by the City and filed as the "permanent construction drawings." For the purposes hereof, a material alteration or modification of a Facility shall be deemed to have occurred if such alteration or modification would render the existing construction drawings inaccurate and/or misleading regarding the location of a structural component thereof. Such drawings shall be of sufficient detail to allow the City to determine the location of the Facilities with reasonable accuracy. In lieu of print documents, a User may, upon advance reasonable request, provide such drawings and maps by other mediums, including electronic mediums, provided the City has the capability to access such information.

**Section 7, Conservation of Public Rights-of-Way.** To the extent the City may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the City may require a User to attach portions of its Facilities to other Facilities within the Public Rights-of-Way owned and maintained by other Persons. A User shall not be required to attach its Facilities to the Facilities of such other Persons if it is shown that such User would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the Facilities of such other Person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the User on reasonable terms, including, without limitation, reasonable fees.

Insofar as is practical to do so, Users shall use existing Facilities in the provision of their services; provided, however, nothing contained herein shall be construed as limiting a User from expanding its Facilities to accommodate future growth and development. Users shall provide information to the City relating to the location and/or operation of their Facilities or services as may be reasonably necessary for municipal planning purposes.

**Section 8. Relocation or Removal of Facilities.** To the extent the City may be authorized by law to do so, a User may be required to lower, place underground, relocate, or remove any Facility within any Public Right-of-Way, without cost to the City, if reasonably necessary, as determined by the City Council, to abate a condition actually or potentially dangerous to public health or safety, or as may be reasonably necessary to accommodate the construction, repair, maintenance, removal, or installation of any publicly funded City project

within the City in, upon, or under Public Rights-of-Way, including, without limitation, street construction and widening, water, sanitary sewer, storm drains, street lights, and traffic signal conduits, or any other public facilities in, upon, or under the Public Rights-of-Way. In the alternative, where the City Council determines it to be feasible, a User may be allowed to pay the additional costs incurred for the design and/or construction of any such publicly funded City project in a manner that would avoid the necessity of relocation or removal of the Facilities. A User shall be provided the opportunity to collaborate in advance with the City and/or propose alternatives in order to minimize cost, better schedule the work, and accommodate suitable refinements and/or joint work with others.

In the event of any such requirement for lowering, placing underground, relocating, or removing Facilities as herein provided, the User shall complete same as soon as is reasonably practicable following written notice thereof by the City.

**Section 9. Obsolete Facilities.** Users shall remove Facilities from the Public Rights-of-Way when such Facilities are obsolete, are no longer in service, and create either visual blight or a nuisance to the public; provided however, a User shall not be required to remove any Facility for which renovation or restoration is planned by the User, and which renovation or restoration is completed within a reasonable period of time. When permanent structures in Public Rights-of-Way are removed, the City shall be notified in writing of such removal.

**Section 10. Bonding.** All Users other than governmental units shall comply with all applicable regulations of the City relating to the provision of bonds or other security which may be required in connection with work in Public Rights-of-Way.

**Section 11. Temporary Rearrangement of Aerial Wires and Cables.** Upon request, a User shall remove or raise or lower its aerial Facilities temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting same, excluding requests by the City. The User may require payment in advance. The User shall be given a reasonable amount of advance notice to provide for such rearrangement.

**Section 12. Tree Trimming.** Users shall comply with all applicable rules and regulations of the City governing the trimming, grooming, or removal of trees or other similar vegetative matter.

**Section 13. Erosion and storm water measures.** Erosion control measures shall be implemented prior to commencement of any work. The User shall comply with storm water management erosion control that complies with the City, state and federal laws, regulations, and guidelines. Requirements may include, but shall not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established and barricade fencing around open holes. High erosion areas shall require wire-backed silt fencing.

**Section 14.** **Placement of Facilities.** All Facilities constructed or installed on or after the effective date hereof shall be buried underground where possible. Except as otherwise provided herein after, all Facilities constructed or installed above ground shall be approved by the City. Pedestals, junction boxes, metering facilities and similar appurtenances may be placed above ground. Users shall not place Facilities within Public Rights-of-Way in such a manner as to unreasonably interfere with existing electrical, cable, or telecommunications fixtures, water hydrants or mains, or drainage or sanitary sewer facilities, and all such Facilities shall be placed in such manner as not to interfere with usual travel or public and/or municipal use of the Public Rights-of-Way. The City shall have the right to direct the location of Facilities in the Public Rights-of-Way. The installation, repair, construction, maintenance, and replacement of Facilities in the Rights-of-Way shall be subject to inspection and approval by the City. Users shall cooperate fully with the City in conducting inspections. Users shall promptly perform remedial action required by the City pursuant to such inspection.

**Section 15.** **Line Location and Identification.** Users shall be responsible for obtaining line locations from the Texas One-Call System, the City, and all affected utilities and others with Facilities in Public Right-of-Way, prior to any excavation. Use of the Geographic Information System or plans of record shall not satisfy this requirement. The User shall be responsible for verifying the location, both horizontal and vertical, of all Facilities. When required by the Mayor or his/her designee, a User shall verify locations of potential conflicts with existing Facilities by pot holing, hand digging, or other similar method, prior to any excavation or boring. Placement of all manholes and/or hand holes must be approved in advance by the Mayor or his/her designee. Hand holes or manholes shall not be located in sidewalks unless approved by the Mayor or his/her designee. Location flags shall not be removed while Facilities are being constructed. All location flags shall be removed during the cleanup process by the User at completion of the work. The User, or his agent, contractor, or subcontractor, shall notify the Director of Public Works immediately of any damage to other utilities.

**Section 16.** **Planning for Capital Improvement Projects.** Users shall apprise the City of existing and planned construction, maintenance, and other activities of the User within Public Rights-of-Way. Except for emergencies, Users shall coordinate all installations and construction within the Public Rights-of-Way with the City's capital improvement programs. City shall notify User within 60 days of the date City will demand relocation or removal of Users facilities to facilitate City's capital program. Within sixty (60) days following receipt of the City's notice thereof, each User shall provide a written report to the City identifying and describing generally the existing Facilities that are within or cross through the boundaries of each project identified by the City. The City and the User shall provide to each other the names of their respective designated officials who will serve as representatives for coordination of the exchange of information and planning on any such project. Users shall field locate their Facilities, and identify same with surface markings, within fifteen (15) working days following the City's request therefor.

**Section 17.** **Guarantee of Performance.** Except as provided in Section 10 hereof, each User, at the time of submission of its initial and each renewal registration application,

shall file with the City a guarantee of performance of the User's obligations hereunder, whether to be performed by the User or any contractor or subcontractor on behalf of the User, to complete the installation of its Facilities within the Public Rights-of-Way in accordance with the permits and approved plans and specifications therefor. Such guarantee shall be payable to the City, in the amount of \$50,000. Provided however, in the event a User, or a contractor or subcontractor performing work on behalf of a User, applies for a permit for work in which the estimated cost of restoration will exceed \$50,000, such User shall file a supplemental guarantee for such additional reconstruction costs. Such guarantee may take the form of a bond, an irrevocable letter of credit, or a statement of fiscal responsibility, as set forth below:

**17.01 Bonds.** A corporate surety bond issued by a corporate surety authorized to do business in the State of Texas. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety, nor may any intention not to renew be exercised by the surety until sixty (60) days after receipt by the City, by registered or certified mail or written notice, of such intent to cancel or to not renew." The rights reserved to the City with respect to the bond are in addition to all other rights of the City and no action, proceeding, or exercise of a right with respect to such bond shall affect any other rights of the City; or

**17.02 Letters of credit.** An irrevocable letter of credit, in a form satisfactory to the Mayor or his/her designee and the City Attorney, shall be issued by a federally insured commercial lending institution with a credit rating of BAA or BBB+ or higher. The federally insured commercial institution on which the irrevocable letter of credit is to be drawn shall be acceptable to the City. The irrevocable letter of credit shall contain the following endorsement: "At least sixty (60) days' prior written notice shall be given to the City by the financial institution of any intention to cancel, replace, fail to renew, or materially alter this irrevocable letter of credit. Such notice shall be given by certified mail to the City. The City of Fulshear, Texas, may draw upon this irrevocable letter of credit by presentation of a draft at sight, accompanied by a written certificate signed by the Mayor, certifying that \_\_\_\_\_ (User) has failed to comply with provisions of ordinances applicable to \_\_\_\_\_ (User's) use of Public Rights-of-Way within the City of Fulshear, Texas."

After providing a User with thirty (30) days advance written notice of any amount due and owing, and the User's failure to pay such amounts, the City may draw upon the irrevocable letter of credit by presentation of a draft at sight, on the lending institution, accompanied by a written certificate signed by the Mayor or his/her designee, certifying that the User has failed to comply with the provisions of this Ordinance.

The User shall structure the irrevocable letter of credit in such a manner that if the City draws upon the irrevocable letter of credit and reduces the amount of available credit to an amount below fifty thousand dollars (\$50,000.00), the User shall replenish the irrevocable letter of credit to a minimum of fifty thousand dollars (\$50,000.00) within five (5) calendar days after the available credit is reduced to an amount below fifty thousand dollars (\$50,000.00). The intent of this Section is to ensure that the credit available to the City shall at no time fall below fifty thousand dollars (\$50,000.00); or

**17.03 Statement of Fiscal Responsibility.** Written evidence, in the form of its most recent audited financial statement, showing assets or reserves sufficient to cover the amount of the guarantee required by this Section. If the User's assets or reserves are no longer adequate to comply with the amounts required by this Section, the User shall immediately notify the City and shall obtain a bond or letter of credit as set forth above.

The rights reserved to the City with respect to the financial guarantees provided for in this Section are in addition to all other rights of the City, whether reserved by this Ordinance or otherwise authorized by law, and no action, proceeding, or right with respect to the guarantee shall affect any other right the City has or may have.

**Section 18. Insurance and Indemnity.**

**18.01 Insurance.** A User shall procure and maintain insurance in full force and effect at all times while its Facilities are located in the Public Rights-of-Way. The insurance shall cover all risks associated with the use and occupancy of such Rights-of-Way. Coverages shall be on an "occurrence basis." The insurance requirements applicable to a User under this Section 18 shall be applicable to all Persons performing work within Public Rights-of-Way on behalf of such User unless such Person is covered, or named as an additional insured, under the policies of insurance supplied by the User pursuant hereto. If any Person other than a User is required to provide such insurance, the provisions referring to a User here in below shall be construed to mean such Person.

- (1) Risks and Limits of Liability. The insurance, at a minimum, must include the following coverages and limits of liability:

	<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
(i)	Workers' Compensation and Employer's Liability	Statutory
(ii)	Employer's Liability:	Bodily Injury \$1,000,000 (each occurrence)
(iii)	Commercial General Liability	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence and \$1,000,000 aggregate
	(a) All premises/operations	
	(b) Independent contractors	
	(c) Products/completed operations	
	(d) Personal and advertising	

- injury
  - (e) Contractual liability
  - (f) Explosion, collapse and underground hazards
- (iv) Comprehensive Automobile Liability, including coverage for loading and unloading hazards for:
- (a) owned/leased vehicles
  - (b) non-owned vehicles
  - (c) hired automobiles
- (v) Excess Coverage
- Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence
- \$5,000,000 per occurrence/combined aggregate in excess of limits specified for Employer's Liability, Commercial General Liability, and Automobile Liability

Note: Aggregate limits are for a 12-month policy period, unless otherwise indicated

- (2) Form of Policies. The insurance may be in one or more policies of insurance, the form of which must be approved by the Texas Insurance Commission.
- (3) Issuers of Policies. The issuer of any policy shall be authorized to transact insurance business in the State of Texas.
- (4) Insured Parties. Each policy shall name the User and the City (and the officers, agents and employees of the City) as insured parties.
- (5) Deductibles. The User shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claims it may ever have for the deductible amounts against the City, its officers, agents or employees.
- (6) Cancellation. Each policy shall expressly state that it may not be canceled or non-renewed unless thirty (30) days advance notice of cancellation or non-renewal is given in writing to the City.

- (7) Subrogation. Each policy shall contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents or employees.
- (8) Liability for Premium. If any of the policies referred to above do not have a flat premium rate, and such premium has not been paid in full, such policy shall have a rider or other appropriate certificate or waiver sufficient to establish that the issuer is entitled to look only to the User for any further premium payment and has no right to recover any premiums from the City.
- (9) "Other Insurance" Clause. The insurance policy(ies) shall provide that the "other insurance" clause does not apply to the City where the City is shown on the policy as an additional insured.
- (10) Delivery of Policies. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them, together with written proof that the premiums have been paid, shall be deposited by the User with the City Secretary prior to commencement of any work. Failure on the part of the User to furnish a new policy or certified copy thereof before the expiration date of any such policy, or failure to obtain a new policy before the date fixed for the cancellation of an existing policy, so that the insurance referred to shall be continuously in effect, shall constitute a violation hereunder.
- (11) Liability of User. The City's approval, disapproval, or failure to act regarding any insurance supplied by a User shall not relieve such person from full responsibility or liability for damages and accidents arising out of use or occupancy of Public Right-of-Way. Neither bankruptcy, insolvency, nor denial of liability by the insurance company shall exonerate the User from liability.
- (12) Self-insurance. A User may elect to self-insure to provide the insurance coverage required hereunder, subject to the restrictions set forth in this subsection, provided the User submits to the City copies of its certificates of self-insurance from the Texas Department of Insurance, and its most recent audited financial statements showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above. A User shall also provide to the City documentation evidencing its process for reviewing and paying claims. The City shall be protected by a User's self-insurance to the same extent as an additional insured on a policy issued by an insurance company. If a User's self-insurance program ceases, or a User's assets or reserves are no longer sufficient to comply with the above coverage requirements, the User shall immediately notify the City of such lapse of coverage, and the

User shall obtain commercial insurance, in accordance with the above requirements, within thirty (30) days following such notice.

**18.02 Indemnity.** To the extent permitted by law, each User, and each Person performing work within a Public Right-of-Way as a contractor on behalf of a User, shall indemnify and hold the City harmless as set forth below. If any Person other than a User is required to provide such indemnity, the provisions referring to a User here in below shall be construed to mean such Person.

The User shall promptly defend, indemnify, and hold the City harmless from and against all damages, costs, losses, or expenses (i) for the repair, replacement, or restoration of City's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the User's acts or omissions; and (ii) from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any person (including, but not limited to, the User, its agents, officers, employees, and subcontractors, and the City, its agents, officers, and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the officers, agents, and employees of the User, the User's contractors, and the City's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from, the negligent or willful acts or omissions of the User, its officers, agents, employees, and/or subcontractors, in the performance of activities pursuant to this Ordinance.

This indemnity provision is intended to include liability arising from the City's alleged negligence, but only to the extent such liability arises out of a claim or claims that the City was negligent in authorizing the User to use or occupy the Public Rights-of-Way, in regulating the conduct of the User, or in failing to prevent the User from acting in a negligent or wrongful manner.

For purposes of this indemnification provision, acts or omissions of the officer, agents, employees and contractors of the User shall be considered the acts and omissions of the User.

The indemnity provision set forth above is solely for the benefit of the City and the User and is not intended to create or grant any rights, contractual or otherwise, to any other Person.

**Section 19.** **Revocation or Denial of Construction Permits.** If any provision of this Ordinance is not followed, a permit for the construction of Facilities may be revoked. If a Person has not followed the terms and conditions of this Ordinance with respect to work done pursuant to a prior permit, new permits may be denied or additional terms may be required.

**Section 20.** **Appeal from Denial or Revocation of Permit.** Appeals from denials or revocations of permits shall be to the City Council. Appeals shall be filed with the City

Secretary within fifteen (15) days from the date of the denial or revocation. A hearing shall be held within thirty (30) days of the date the appeal is filed with the City Secretary.

**Section 21. Conflicts with Existing Franchises.** The provisions of this Ordinance shall be effective within the City limits and shall include all areas that, from time to time, may be subsequently annexed or added to the City. However, the provisions of this Ordinance shall not apply to any person with a current, unexpired franchise or other written authorization from the City granting use of the public rights-of-way. In the event of a conflict between this ordinance and the terms and provisions of such prior grant, said prior grant shall remain superior to any provision set out herein, until the prior grant shall terminate or otherwise expire. The provisions of this Ordinance shall control where no conflict exists.

**Section 22. Notice.** Any notice required to be given to City hereunder shall be given in writing, and may be effected by (i) personal delivery if delivered to the Mayor or his/her designee, (ii) by facsimile or electronic mail, if delivered to the said Mayor or his/her designee and to the City Secretary, or (iii) by United States mail, postage prepaid, registered or certified, return receipt requested, addressed to the Mayor or his/her designee and the City Secretary. No notice shall be deemed given until actual receipt by City as hereinabove set forth.

**Section 23. Penalties/Remedies.**

**23.01 Criminal Penalty.** Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed two thousand dollars (\$2000.00). Each day of violation shall constitute a separate offense. Prosecution for, and imposition of, criminal penalties under this Subsection shall not bar the City from seeking other additional remedies as may be provided in this Ordinance, by law, or in equity.

**23.02 Civil penalties.** Civil penalties may be imposed for violation of any provision of this Ordinance, as follows:

- (1) Up to one thousand dollars (\$1,000.00) for each violation, and each day of a continuing violation may be considered a new violation; and/or
- (2) Revocation of any or all permits granted to allow work in Public Rights-of Way, subject to procedural guidelines provided in this Ordinance, any agreement which applies to the person subject to the complaint, and subject to any limitation imposed by federal or state law.

**Section 24. Repealer.** All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

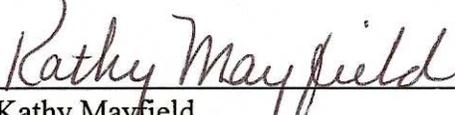
**Section 25. Severability.** In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other

than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear , Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19 day of September, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

John Smart - Mayor Pro-Tem -	<u>X</u> Yes
Charles Herron - Council Member -	<u>X</u> Yes
J B Collins, Jr. - Council Member -	<u>X</u> Yes
Robert Fox - Council Member -	<u>X</u> Yes
Bill Archer - Council Member -	<u>X</u> Yes

ORDINANCE NO. 01-877

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, REGULATING AND PROVIDING FOR THE ABATEMENT OF ABANDONED AND JUNKED VEHICLES OR PARTS OF JUNKED VEHICLES IN ACCORDANCE WITH CHAPTER 683 OF THE TEXAS TRANSPORTATION CODE; ADOPTING PROCEDURES FOR REGULATION AND ABATEMENT OF ABANDONED AND JUNKED VEHICLES IN ACCORDANCE WITH STATE LAW, AND PROVIDING FOR POLICIES FOR DEALING WITH ABANDONED AND JUNKED VEHICLES OR PARTS OF JUNKED VEHICLES; CONTAINING FINDINGS; ADOPTING THE DEFINITIONS CONTAINED IN CHAPTER 683 OF THE TEXAS TRANSPORTATION CODE; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$200; REPEALING ORDINANCE NO. 85-717 AND OTHER ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

WHEREAS, the City Council of the City of Fulshear has by ordinance regulated abandoned and junked vehicles pursuant to State law; and

WHEREAS, the City desires to strengthen its regulations and policies pertaining to the control and abatement of abandoned and junked vehicles, as provided by Chapter 683 of the Texas Transportation Code; and

WHEREAS, the City finds there is a continuing need for the regulation of abandoned and junked vehicles because such vehicles are detrimental to the public health, safety, and welfare; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS;

Section 1. The recitations contained in the preamble to this Ordinance are found to be true and correct.

Section 2. Definitions. As used in this Ordinance, the following words and phrases shall have the meanings given in Chapter 683 of the Texas Transportation Code, as amended:

- (1) *Abandoned motor vehicle*
- (2) *Antique vehicle*
- (3) *Department*
- (4) *Garagekeeper*
- (5) *Junked vehicle*
- (6) *Law enforcement agency*
- (7) *Motor vehicle*
- (8) *Motor vehicle collector*
- (9) *Motor vehicle demolisher*
- (10) *Outboard motor*
- (11) *Special interest vehicle*
- (12) *Storage facility*
- (13) *Watercraft*

Such other words and phrases used in Chapter 683 of the Texas Transportation Code are made a part of this Ordinance as necessary to implement the provisions hereof.

Section 3. Abandoned Motor Vehicles. The City shall regulate the custody, storage, disposal, and demolition of abandoned motor vehicles in accordance with the provisions of Chapter 683 of the Texas Transportation Code, as amended. The City Secretary, or her designated representative, is hereby authorized to administer these procedures.

Section 4. Junked Vehicle declared to be Public Nuisance. A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the public;
- (2) tends to reduce the value of private property;
- (3) invites vandalism;
- (4) creates a fire hazard;
- (5) is an attractive nuisance creating a hazard to the health and safety of minors;

- (6) produces urban blight adverse to the maintenance and continuing development of the City; and
- (7) is a public nuisance.

Section 5. Authority to abate nuisance; procedures. The City hereby adopts the procedures for the abatement and removal of junked vehicles or part of a junked vehicle from private or public property or a public right-of-way, as such procedures are contained in Chapter 683 of the Texas Transportation Code. Further, a junked vehicle or junked vehicle part removed under these procedures shall not be reconstructed or made operable after removal. A public hearing is required before removal of such public nuisance. Not less than ten (10) days notice of the public hearing shall be given in compliance with Chapter 683 of the Texas Transportation Code. The hearing shall be conducted before the City Council and notice shall be given to the Texas Department of Transportation, not later than the fifth (5<sup>th</sup>) day after the date of removal, identifying such junked vehicle or part of the vehicle.

The City Secretary of the City, or her designated representative, is hereby authorized to administer these procedures.

Section 6. Other Provisions.

These procedures relating to junked vehicles or parts of junked vehicles are not applicable to those vehicles or vehicle parts which are excepted as provided in Chapter 683 of the Texas Transportation Code.

A junked vehicle or part of a junked vehicle may be removed to a scrapyard, demolisher, or a suitable site operated by the County, as provided by Chapter 683 of the Texas Transportation Code; provided, however, no such disposal site shall be maintained or operated by the City, in whole or in part.

The City Secretary is hereby authorized to adopt and implement policies relating to the handling of abandoned and junked vehicles or parts of a junked vehicle, including, but not limited to, the role and duties of Peace Officers, tagging of vehicles or parts to give notice to the owner or person in charge, and communications with owners and persons or entities who handle abandoned vehicles, junked vehicles, or parts of junked vehicles. Such policies adopted by the City Secretary shall be consistent with the provisions of Chapter 683 of the Texas Transportation Code, as amended, and such procedures shall be maintained in the Office of the City Secretary of the City for public inspection.

Section 7. Penalty. Any person who maintains a nuisance as defined hereunder shall, upon conviction, be fined not more than two hundred dollars (\$200.00). In addition, upon conviction, the Court shall order removal and abatement of the nuisance, which order may be reinforced by any means authorized by the laws of the State of Texas. Each day during which such violation shall exist or occur shall constitute a separate offense.

Section 8. Repealer. Ordinance No. 85-717, adopted May 28, 1985, is hereby repealed and all ordinances or parts of ordinances inconsistent or in conflict herewith are repealed to the extent of such inconsistency or conflict.

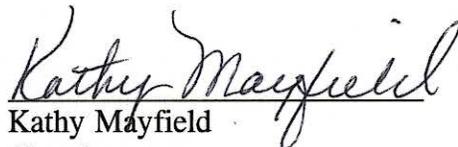
Section 9. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would

have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED on this 14 day of November, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary

John Smart - Mayor Pro-Tem -	<u>  X  </u>	Yes
Charles Herron - Council Member -	<u>  X  </u>	Yes
J B Collins, Jr. - Council Member -	<u>  X  </u>	Yes
Robert Fox - Council Member -	<u>  X  </u>	Yes
Bill Archer - Council Member -	<u>  X  </u>	Yes

ORDINANCE NO. 01-878

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING DEFINITIONS; MAKING IT UNLAWFUL TO ENGAGE IN THE BUSINESS OF COLLECTING AND TRANSPORTING FOR DISPOSAL MUNICIPAL SOLID WASTE EXCEPT UNDER CONTRACT THEREFOR WITH THE CITY; PROVIDING STANDARDS FOR STOCKPILING MUNICIPAL SOLID WASTE PENDING COLLECTION; PROVIDING THAT INVOICES FOR MUNICIPAL SOLID WASTE COLLECTION ARE PAYABLE UPON RECEIPT; MAKING IT UNLAWFUL TO REFUSE TO PAY FOR SUCH COLLECTION SERVICES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION AND EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

WHEREAS, the City Council of the City of Fulshear, Texas, hereby finds and determines that the public health, safety and welfare, as well as public convenience and necessity, requires that regulations governing the stockpiling and collection of garbage, rubbish, and refuse be adopted; and

WHEREAS, the City Council further finds that the collection and disposal of garbage, rubbish, and refuse pursuant to a contract provides the City with the most effective means of ensuring that those who collect and dispose of residential garbage, rubbish, and refuse within the City do so in a manner that will not create health hazards on public streets and ways, as well as adjoining properties; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Bags – Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed fifty (50) pounds.
2. Bin – Metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.
3. Bulky Waste – Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for bins or containers, as the case may be.
4. Commercial and Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and stable matter generated by a producer at a commercial and industrial unit.
5. Commercial and Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the City not a residential unit.
6. Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.
7. Container – A receptacle with a capacity of greater than 20 gallons but less than 35 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the container by animals or insects. The mouth of the container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed fifty (50) pounds.
8. Dead Animals – Animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use.
9. Excluded Waste – Construction-demolition waste, wastewater treatment plant sludge, and any materials or substances that may not lawfully be disposed of at Type I or Type IV landfills permitted by the Texas Natural Resource Conservation Committee, including, but not limited to, petroleum and petroleum products, natural gas and natural gas products, asbestos, lead and polychlorinated biphenyls, and any radioactive, volatile, corrosive, highly flammable, explosive,

biomedical, infectious, biohazardous, toxic or hazardous waste substance or material, as defined by applicable federal state or local laws or regulations.

10. Garbage – Any and all dead animals of less than 10 pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.
11. Hazardous Waste – Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State laws.
12. Municipal Solid Waste Collector – A person which the City has contract with, pursuant to Section 3 hereof, for the collection of refuse generated within the City.
13. Producer – An occupant of a commercial and industrial unit or a residential unit who generated refuse.
14. Refuse – This term shall refer to residential refuse and bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires, and commercial and industrial refuse.
15. Residential Refuse – All garbage and rubbish generated by a producer at a residential unit.
16. Residential Unit – A dwelling within the corporate limits of the City occupied by a person or group of persons consisting of not more than four (4) families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit.
17. Rubbish – All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible

waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

18. Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Section 3. Contract required. It shall be unlawful for any person to engage in the business of collecting any refuse generated within the corporate limits of the City unless such collection is done pursuant to a contract between said person and the City.

Section 4. Terms and conditions of contract. The terms and conditions of all contracts entered into between the City and any person for the collection of refuse generated within the corporate limits of the City shall be as determined and agreed to by the City Council and such person.

Section 5. Standards for stockpiling pending collection.

1. It shall be unlawful for any person stockpiling refuse pending collection to fail to comply with the following standards:
  - (a) A container used to store refuse shall not exceed 35 gallons, and shall be constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the container by animals or insects. The mouth of the container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed fifty (50) pounds;
  - (b) Bins and containers used by commercial or industrial establishments to store refuse shall be equipped with an appropriately sized lid, which shall be securely attached when containing refuse;
  - (c) The total weight of bagged refuse shall not exceed fifty (50) pounds, nor shall bags be used which lack wall strength to maintain the physical integrity of the bag when lifted by the top when full;

- (d) All refuse stockpiled for collection shall be placed in a bag, bin, or container; provided, however, tree limbs, shrubbery debris, bush trimmings, and other yard wastes, or newspapers, magazines, or other looseleaf paper products may be bundled if securely tied together forming an easily handled package not exceeding four (4) feet in length and fifty (50) pounds in weight;
- (e) No person shall place for collection and transport for disposal by a municipal solid waste collector any waste deemed excluded waste; and
- (f) Bins used at commercial or industrial establishments shall not be placed nearer than five (5) feet from any building.

Section 6.     Collection; payment required. The City has made provision for uniform and orderly collection and removal of refuse generated within the corporate limits of the City. Each commercial establishment and each occupied residence within the City shall be billed for such services at the rates established from time to time by City Council, and such bills will be due and payable upon receipt. It shall be unlawful for any person to refuse to avail themselves of the garbage collection services provided by the City itself or through its contractor and to refuse or fail to pay the charges for garbage collection services provided by the City.

Section 7.     Removal required. It shall be unlawful for any owner or occupant of property within the City to fail to remove, or cause to be removed, and lawfully dispose of all refuse generated or accumulated on the property, other than refuse collected and disposed of by the municipal solid waste collector.

Section 8.     Penalty. Any person who violates any provision of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed two thousand dollars (\$2,000.00). Each day in which any violation shall occur, or each occurrence of any violation, shall constitute as a separate offense.

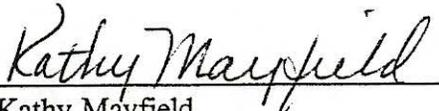
Section 9. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 10. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 12<sup>th</sup> day of December, 2001.

  
\_\_\_\_\_  
J. Michael Dinges  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Mayfield  
City Secretary