

ORDINANCE NO. 10-I

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS CREATING CHAPTER 36, AUTOMOTIVE RELATED BUSINESSES, ESTABLISHING REGULATIONS FOR BUSINESSES ENGAGED IN AUTOMOBILE RELATED ACTIVITIES; PROVIDING FOR A PENALTY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City of Alvin, Texas, (herein the “City”), being a home-rule city has authority to utilize police power regulation for the health, safety and general welfare of the citizens of the City; and,

WHEREAS, the City Council finds that the regulations set forth herein are reasonable and necessary for the public health, safety, and welfare, and for the promotion of economic development and aesthetics in the City; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN:

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this Ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Adopt Chapter 36. That the City of Alvin Code of Ordinances is hereby amended by adding Chapter 36, to be entitled “Automotive Related Business Regulations” to read as follows:

CHAPTER 36

AUTOMOTIVE RELATED BUSINESSES

- Sec. 36-1. Purpose and policy.
- Sec. 36-2. Applicability.
- Sec. 36-3. Abbreviations.
- Sec. 36-4. Definitions.
- Sec. 36-5. General operating requirements for automotive related businesses.
- Sec. 36-6. General prohibitions for automotive related businesses.
- Sec. 36-7. Automotive related businesses in violation restricted from operation.
- Sec. 36-8. Enclosure.
- Sec. 36-9. Parking and Storage of Vehicles and automotive related parts.
- Sec. 36-10. Maintenance.
- Sec. 36-11. Existing automotive related businesses at time of enactment of this chapter.
- Sec. 36-12. Compliance with regulations and ordinances.

- Sec. 36-13. Automotive related businesses - Nonconforming establishments declared nuisances.
- Sec. 36-14. Automotive related businesses to be open for inspection.
- Sec. 36-15. Annual inspection and sampling fees.
- Sec. 36-16. Automotive related business permit--Required; application.
- Sec. 36-17. Automobile related business - Investigation.
- Sec. 36-18. Automotive related business - Issuance.
- Sec. 36-19. Automotive related business - Transfer; form; term.
- Sec. 36-20. Automotive related business - Causes for revocation and suspension.
- Sec. 36-21. Automotive related business - Hearing on appealing revoked or suspended permits.
- Sec. 36-22. Right of entry.
- Sec. 36-23. Right of revision.
- Sec. 36-24. Search warrants.
- Sec. 36-25. Responsibility for installation of monitoring wells and sample testing cost, cleanup costs, damages.
- Sec. 36-26. Remedies nonexclusive.
- Sec. 36-27. Administrative liability.
- Sec. 36-28. Penalty for violations of chapter; other remedies.

CHAPTER 36. AUTOMOTIVE RELATED BUSINESS REGULATIONS
ARTICLE I. IN GENERAL

Sec. 36-1. Purpose and policy.

(a) To prevent the introduction of pollutants into any publicly owned treatment works that will interfere with its operation.

(b) To prevent the introduction of pollutants into the municipal separate storm sewer system (MS4) or otherwise be incompatible with the waters of the United States.

(c) To enable the control authority to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions as well as any and all other federal or state laws to which the city is subject.

(d) For the protection of human health and the environment.

This article provides for monitoring, compliance and enforcement activities; and the setting of inspection fees for the equitable distribution of costs resulting from the program established herein.

Sec. 36-2. Applicability

(a) This chapter sets forth uniform requirements for businesses engaged in automotive-related activities within the City of Alvin. The following automotive-related activities will be regulated under this chapter:

- (1) New or used automobile sales, rental, or leasing;
- (2) Automotive parts sales, new or used, including, but not limited to, tires, tubes, engines, transmissions, exhaust systems, radiators, brakes and body parts, or any aftermarket or replacement parts and accessories;
- (3) Automotive repair and/or replacement shops, including, but not limited to, tires, tubes, engines, transmissions, exhaust systems, radiators, brakes and bodies;
- (4) Automotive front-end alignment shops;
- (5) Automotive paint and/or body shops;
- (6) Automotive oil change and lubrication shops;
- (7) Automotive washing, cleaning, polishing and detailing (excluding self-serve car washes);
- (8) Automobile holding yards; and
- (9) Inoperable vehicle holding yards.

(b) In addition to subsection 36-1(a), any other groups or activities identified to be automotive by the North American Classification System.

Sec. 36-3. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

EPA	U.S. Environmental Protection Agency
MS4	Municipal Separate Storm Sewer System
POTW	Publicly Owned Treatment Works
TPDES	Texas Pollution Discharge Elimination System

Sec. 36-4. Definitions.

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them:

Act or “*the Act*” shall mean The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

City. The City of Alvin or any authorized person acting in its behalf.

Church. A structure where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from ad valorem taxes.

Day-care center shall mean as defined and set forth in the V.T.C.A., Human Resources Code §42.002.

Debris means a solid waste (as defined in Texas Health and Safety Code 361.003 or other discarded materials.

Garbage means any animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

Hazardous [waste]. Any matter which is or may be reasonably expected to be dangerous to human health, the environment, or property, and shall include, but not be limited to, those substances defined as hazardous waste or material by federal or state agencies.

Industrial waste. Waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater or distinct from normal wastewater.

Inoperable vehicle. Any motor vehicle which is inoperable, does not have lawfully attached thereto both unexpired licenses plate or plates and a valid motor vehicle safety inspection certificate, is wrecked, dismantled, or partially dismantled, or that remains inoperable for a continuous period of more than forty-five (45) days.

Inoperable vehicle holding yard. A place limited to the storage, parking, or holding of two (2) or more whole inoperable motor vehicles for the purpose of retail or wholesale sales of said vehicles; or short or long term storage of said vehicles and provided however; that no repairs, dismantling, partial dismantling, crushing, or compacting of said vehicles or parts of said vehicles shall take place on said yard.

Junk means:

- (1) Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris or waste;
- (2) Junked, dismantled, or wrecked motor vehicles or motor vehicle parts; or
- (3) Iron, steel and any other old or scrap ferrous or nonferrous material.

Floodplain or flood-prone area. Any land area susceptible to being inundated by flood water from any source.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the designated height.

Motor vehicle has the meaning assigned by V.T.C.A, Transportation Code § 541.201.

Municipal separate storm sewer system (MS4): The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

Natural outlet. Any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

Owner or occupant: The person, firm, or public or private corporation, using the lot, parcel of land, building or premises, and who pays, or is legally responsible for the payment charges made against the said lot, parcel of land, building or premises.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, or any other legal entity howsoever formed, agents, or assigns. This definition includes all federal, state, and local governmental entities.

Publicly Owned Treatment Works or (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by the city and/or the control authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Regulated materials. Any material regulated by the state and/or federal regulatory agencies including, but not limited to, oils, petroleum products, and vehicle fluids.

Regulatory authority. The city manager or duly authorized representative of the city manager.

Residence means any structure which, at the time of the application for a permit, is being used as a dwelling place for residential purposes, whether single-family or multi-family.

School means a public or private elementary, junior high and high school.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall is mandatory; *May* is permissive.

State environmental regulatory authority. The state's agencies that have the authority to adopt and enforce any environmental rules necessary to carry out its powers and duties under the laws of Texas.

Storm water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Trap. A device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Waste. Rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

Wastewater. A combination of the water-carried waste from residences, business building, institutions, and industrial establishments, together with any ground surface and storm water that may be present.

Watercourse. A natural stream flowing constantly or recurrently on the surface of the earth in a reasonably defined channel.

Sec. 36-5. General operating requirements.

The following regulations shall apply to all automotive-related operations in the city and it shall be unlawful to operate such business in any manner not in accordance with the terms contained herein:

(a) The certificate of occupancy issued by the City of Alvin Building Official for automotive-related businesses shall be plainly displayed on the business premises

(b) The annual fire prevention operations permit issued by the City of Alvin, Fire Marshal for automotive related businesses shall be plainly displayed on the business premises and activities on the premises shall be as stated on the occupancy permit.

(c) No space not covered by an automotive related business permit shall be used for the storage of parts.

(d) No debris shall be allowed to accumulate unless in an approved container.

(e) No junk, parts, or vehicles shall be allowed to rest upon or protrude over any public street, walkway, or curb, or become scattered or blown off the business premises.

(f) Combustible materials of any kind not necessary or beneficial to the business shall not be kept on the premises; nor shall the premises be allowed to become a fire hazard.

(g) No automobile or other material shall be burned on the premises.

(h) All vehicle or vehicle part washing operations discharges shall be to the sanitary sewer system through an approved sand/grit trap.

(i) All industrial waste shall be waste characterized and disposed of in accordance with local, state, and federal regulations.

(j) All facilities shall have any storm water authorization as required by any local, state and/or federal requirements. All covered facilities shall be in compliance with all federal and state storm water discharge permitting and management regulations.

(k) All facilities shall have any air authorization as required by any local, state and/or federal requirements. All covered facilities shall be in compliance with all federal and state air discharge permitting and management regulations.

(l) All premises shall be maintained in such a manner as to not allow any standing water at any time.

(m) All potable water and sanitary sewer system lines shall be maintained. No leaking water or wastewater from the system shall be allowed to discharge to the ground.

(n) All drum or other containers used for the storage of regulated materials and non regulated material shall be marked with the name, address, and phone number of the business.

(o) Used oil generators shall comply with state regulations to register as a "used oil collection center" and used oil filter generators shall comply with state regulations to register as a "used oil filter collection center".

(p) All drums or containers containing waste must be labeled in accordance with state and federal regulations.

(q) Any discarded hazardous or other regulated liquid, semi liquid, or solid waste may not accumulate or be present beyond any time frames established by state and/or federal regulations.

(r) All disposal manifests must be kept on site for three (3) years and be immediately available for review upon request.

(s) All facilities that generate, transport, or retail used or scrap tires must have a waste tire generator identification from the state environmental regulatory authority.

(t) Tires shall only be removed by a state registered waste tire hauler.

(u) All batteries must be stored indoors in the manner prescribed by state or federal laws or regulations.

(v) Non-potable water or sources shall not be cross-connected with the potable water supply.

(w) Outside repair, maintenance, and/or servicing of vehicles is prohibited.

(x) No inoperable vehicles shall be allowed to be stored outside. All automotive storage facilities are subject to and shall be in compliance with the City of Alvin's Code of Ordinances Chapter 32, junked vehicles.

(y) All spills or unauthorized releases of hazardous materials anywhere on the property shall be mitigated immediately. No liquids or wastes may be allowed to accumulate on the ground or outside of approved containers.

(z) All facilities shall have an office and public restrooms onsite.

Sec. 36-6. General prohibitions.

In compliance with federal, state and other statutes, the regulatory authority may designate storm sewers, the MS4, and other watercourses into which unpolluted drainage may be discharged. It shall be unlawful for any person, owner, tenant, or employee, to commit such acts as listed below:

(a) Unless authorized by a federal or state permit and with the approval of the regulatory authority, no person may discharge any wastewater, industrial waste, polluted, or unpolluted liquids on public or private property in or adjacent to any natural outlet, watercourse, storm sewer, or other area under jurisdiction of the MS4.

(b) Discharge or deposit, upon any public or private property, any industrial, chemical, hazardous materials, or other regulated waste.

(c) Permit any vehicle engine fluids, oils, greases, vehicle fuels, or like material to be discharged or deposited on the ground.

(d) Allow any waste-hauler not registered by either the local, state, and/or federal authority to take off the premises any waste products.

(e) Discharge into a private sewage system any industrial or chemical waste.

(f) Allowing any grass clippings, leaves, or any debris to collect on any curb, gutter, storm inlet, storm drain, or watercourse.

(g) Discharge any material prohibited by the Texas Water Code or any material that may cause a violation of the Texas Surface Water Quality Standards.

(h) Discharge of any vehicle wash from any commercial property.

(i) Discharge from any sanding activities or grinding, cutting, sawing of any materials that result in fine particle dust on the ground outside of any enclosed facilities. All discharge and resulting materials shall be collected and disposed of properly.

(j) Introduce or cause to be introduced to the MS4 any sediment, dust or other solid material from any activity not intended for outside disposal or accumulation.

(k) Discharging of cooling, compressor, or boiler blow down water to any area other than the sanitary sewer.

(l) The storage or parking of any vehicle, operable or inoperable, or any portion of such vehicle on the public right-of-way.

(m) Any tires or tire parts without rims shall not be stored outside or in a manner in which they will be exposed to the elements.

(n) Materials used in repair, inoperable vehicles, vehicle parts, or any other related materials shall not be stored outside an enclosed building at a body shop, automotive repair shop, or used car lot.

(o) The practice of storing salvaged parts of such vehicles and/or the salvaging of any used parts of such vehicles is specifically prohibited outside the wall or fenced area.

(p) For the purposes of these regulations, a tank system is defined as the tank and any distribution equipment. All above-ground and underground storage tank systems must comply with the following regulations:

(1) Tank systems must comply with all federal, state, and local regulations;

(2) Underground storage tank systems are prohibited in the floodway, or within the 100-year floodplain;

- (3) Above-ground storage tank systems are prohibited in the floodway;
- (4) Above-ground storage tanks must have secondary containment equal to or greater than one hundred ten (110%) percent of the volume of the largest tank or be an approved double-walled tank. If the secondary containment consists of diking, the material used must be impervious and be approved for use by the Fire Marshal;
- (5) All underground storage tank systems in violation of this section must come into compliance with the state environmental regulatory authority regulations for storage tank permanent removal from service.
- (6) All automotive related businesses closed or not operational for more than 6 months shall remove from service immediately all underground storage tanks.

(q) Floodway boundaries for the property shall be specifically marked with monument or other permanent structures acceptable to the city for ease in determining on the ground where the floodway is located. The minimum acceptable standard for such monuments shall be an eight-foot-long, four-inch (outside diameter) pipe, set vertically in the ground with at least six (6) feet of pipe visible above the ground level and painted standard international orange.

Sec. 36-7. Automotive related businesses in violation restricted from operation.

All automotive related businesses closed or inoperable and in violation shall not reopen or become operational until all violations have been corrected.

Sec. 36-8. Enclosure.

Each automotive related business' outside storage area shall be completely enclosed by a solid fence or wall at least eight (8) feet in height. Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences or walls shall be constructed of wood, masonry, cyclone with privacy slates, or twenty-six (26) gauge steel panels. All sides of the required fencing must be constructed of the same material and shall be the same color. The design and construction of a twenty-six (26) gauge steel paneled fence must achieve a one hundred twenty (120) mph wind load.
- (2) All privacy slates installed shall be forest green or dark brown in color.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the city's ordinances.

Openings in the prescribed enclosure which are necessary to permit reasonable access to the automotive related business shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times, except during normal business hours.

No storage shall be kept or stored at an automotive related business in such a manner that it extends beyond the fence or wall.

Sec. 36-9. Parking and storage of vehicles and automotive related parts.

(a) All automotive related parts that have contained or may be contaminated with oil or grease must be stored indoors or outside within an approved container or drum. All outside storage of automotive related parts shall be placed on concrete flooring. The concrete flooring must be designed to capture and drain rainwater and contaminants into a common collection system. The collection system must include an oil separator sized to prevent the release of contaminants into the environment.

(b) Parking areas and/or holding lots for customer parking and/or sale, maintenance, servicing or repair of vehicles shall be a solid concrete or asphalt surface. All parking spaces shall be striped using national standard colors. Parking spaces shall be arranged as to not obstruct access for emergency vehicles entering and exiting the property.

Sec. 36-10. Maintenance.

Every automotive related business shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. Grass and other vegetation shall not be allowed to grow to a height more than nine (9) inches above the ground.

Sec. 36-11. Existing automotive related businesses at time of enactment of this chapter.

(a) *Fencing requirements.* A person owning or operating an automotive related business on the date of enactment of this chapter shall have six (6) months from the date of enactment of this chapter in which to comply with the fencing requirements set forth in section 36-8 of this chapter.

(b) *Concrete flooring requirements.* A person owning or operating an automotive related businesses on the date of enactment of this chapter shall have one (1) year from the date of enactment of this chapter in which to comply with the concrete flooring requirements set forth in section 36-9 of this chapter.

Sec. 36-12. Compliance with regulations and ordinances.

All automotive related businesses must at all times be in full compliance with all federal, state, and local regulations, statutes, laws, and ordinances regarding health and safety.

If any requirements listed within this chapter conflict with other ordinances of the City of Alvin, the more restrictive shall apply.

Sec. 36-13. Automotive related businesses - Nonconforming establishments declared nuisances.

It shall be unlawful for any person to engage in the automotive related business within the city or to continue in such business without conforming to all of the terms and conditions applicable thereto

contained in this Chapter. All automotive related business operations now in existence in the city that do not conform to the regulations herein imposed are hereby declared public nuisances.

Sec. 36-14. Automotive related businesses to be open for inspection.

All persons having the care, custody or control of any automotive related business shall, during regular days and hours of business, allow the Health Inspector, the Code Enforcement Officer, the Building Official, the Fire Marshal and the Chief of Police, or properly credentialed representative of the City to inspect the premises for the purposes of ascertaining compliance with federal and state laws and regulations and all requirements of this chapter and other applicable city ordinances.

Sec. 36-15. Annual inspection and sampling fees.

The city may adopt reasonable, non-refundable fees for reimbursement of costs of setting up and operating the city's automotive-related business program which include:

(a) Yearly inspection fee for all automotive-related businesses excluding automotive salvage yards shall be one hundred fifty dollars (\$150.00).

(b) Monitoring fees for sampling and analysis shall cover the cost to the city and shall include, but not be limited to the cost of labor, equipment, supplies, laboratory charges, and federal reporting requirements. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

Sec. 36-16. Automotive related business permit--Required; application.

No person shall engage in the automotive related business unless, and until such person shall have first obtained a permit therefore as provided for herein. Any person desiring to engage in an automotive related business shall make application for such permit on forms furnished by the Fire Marshal, or designee, which shall contain the following information:

(a) The name and address of applicant, and in the event applicant is a partnership, the names and addresses of all partners, and in the event applicant is a corporation, the names and addresses of all officers of such corporation.

(b) The location of the proposed automotive related business to be permitted.

(c) Such other information as may be required by the Fire Marshal.

Sec. 36-17. Automobile related business - Inspection.

Upon receipt of an application for a permit to engage in the automotive related business, the Fire Marshal or designee shall notify the Health Inspector, the Code Enforcement Officer, and the Building Official; and such permit shall be issued only after:

(a) The applicant has obtained a certificate from the Fire Marshal to the effect that the property proposed to be used as an automotive related business will not be in violation of the City of Alvin's Code of Ordinances.

(b) The Health Inspector, Code Enforcement Officer, Building Official and Fire Marshal shall have found that the proposed or existing premises and equipment with which the automotive related business operation is being or is to be operated conforms to the requirements of the applicable codes, regulations, laws, and the requirements of this chapter.

Sec. 36-18. Automotive related business --Issuance.

Once the inspection of the business is complete and all requirements of this chapter have been met, the Fire Marshal shall, within thirty (30) days after the filing of the application:

- (1) Notify the applicant that the application has been approved and that a permit to operate an automotive related business in the City will be issued upon payment of applicable fees.

If any of the findings provided for in said section are unfavorable to the applicant, the Fire Marshal, or designee, shall, within thirty (30) days after the filing of the application:

- (1) Notify the applicant that the application is denied and that no permit will be issued.

Upon request, the Fire Marshal or his designee shall furnish the applicant with a brief written statement of the grounds upon which the application was denied.

Sec. 36-19. Automotive related business - Transfer; form; term.

(a) Permits issued under this chapter shall not be transferred or assigned or used by any person other than the one to whom it is issued, unless application for such transfer is made to the Fire Marshal, or designee, and thereafter approved. If approved, the permit may be transferred at a fee for the remainder of the time the original permit stays in effect.

(b) The permit shall not be used in any location other than the one described in the application upon which it was issued, and shall state on its face the following:

"This permit applies only to the premises indicated herein and authorizes the permittee to operate an automotive related business in a lawful place and manner only; it is not a substitute for any certificate of occupancy, building permit, or other certificate or permit that might be required by law of the permittee, and it does not relieve the permittee of the responsibility to have all such required permits or certificates at all times and comply with all laws affecting the above described premises."

(c) Said permit shall further state on its face the date of its issuance and the date of its expiration, which shall be January 1 of the year following its issuance.

Sec. 36-20. Automotive related business - Causes for revocation and suspension.

The Fire Marshal may revoke or suspend the permit of any automotive related business at any time upon its finding, after a report by the Health Inspector, the Code Enforcement Officer, the Building Official, or Chief of Police, that:

(a) the automotive related business has failed to comply with the provisions of this chapter, of any provisions of the federal , state or local laws or ordinances applicable to the premises, equipment or operation of the permitted business;

(b) the permittee has obtained such permit through any fraud or misstatement;

(c) the permitted business or activity is being conducted in a manner detrimental to the health, safety or general welfare of the public, or is a nuisance, or is being operated or carried on in any unlawful manner; or

(d) the permitted business or activity is no longer being carried on or operated.

Sec. 36-21. Hearing on appealing revoked or suspended permits.

Any person aggrieved by the order of any administrative official authorized to act hereunder granting, denying, renewing or revoking a permit for a proposed or existing business or activity subject to the provisions of this chapter, shall, as a prerequisite to the filing of any proceeding before any court of competent jurisdiction, file a written appeal of such action or decision to the Building Board of Adjustments and Appeals within ten (10) working days after the issuance of such order.

Sec. 36-22. Right of entry.

The City of Alvin’s representative(s) shall have the right to enter the premises of any person to determine whether that person is in compliance with all requirements of this chapter. Persons shall allow inspecting or monitoring personnel ready access to all parts of the premises for the purposes of inspection, monitoring, records examination and copying, and the performance of any additional duties. Any information concerning a requirement under this chapter, including, but not limited to water testing data, construction records, state registrations, environmental and closure records, shall be made readily available upon request.

(a) Where security measures are in force which requires proper identification and clearance before entry into the premises, that person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city's representative will be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The city's representatives shall have the right to set up on any person's property such devices as are necessary to conduct monitoring of any person's operations.

(c) Unreasonable delays in allowing inspecting or monitoring personnel access to any person's premises shall be a violation of this chapter.

Sec. 36-23. Right of revision.

The regulatory authority reserves the right to establish, by ordinance more stringent standards or requirements on discharges to the MS4 and by RCRA.

Sec. 36-24. Search warrants.

If the regulatory authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the regulatory authority may seek issuance of a search warrant from the appropriate court.

Sec. 36-25. Responsibility for installation of monitoring wells and sample testing cost, cleanup costs, damages.

All owners/occupants are subject to fees as outlined in Chapter 28, abatement of hazardous conditions if the owner/occupant fails to comply with this chapter.

Sec. 36-26. Remedies non-exclusive.

The remedies provided for in this chapter are not exclusive. The regulatory authority may take any, all, or any combination of these actions against a noncompliant user.

Sec. 36-27. Administrative liability.

(a) No officer, agent, or employee of the city shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such person's duties under this chapter.

(b) Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in this discharge of such duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein.

Sec. 36-28. Penalty for violations; other remedies.

(a) Any person, firm, or corporation who violates any provision of this chapter or any permit issued under this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine as provided in section 1-5 of the Code of Ordinances of the City of Alvin, or any amendment thereto or renumbering thereof, for violations of public health for each act of violation and for each day of violation.

(b) Any person, firm, or corporation who obstructs, impedes, or interferes with a representative of the city, with a representative of a city department, with surveillance equipment, or with a person who has been ordered to abate a situation pursuant to this chapter and who is lawfully engaged in such abatement is guilty of a misdemeanor and upon conviction is punishable by a fine as provided in section 1-5 of the Code of Ordinances of the City of Alvin, or any amendment thereto or renumbering thereof, for violations of public health for each act of violation and for each day of violation.

(c) In addition to proceeding under authority of subsections (a) and (b) of this section, the City of Alvin is entitled to pursue all criminal and civil remedies to which it is entitled under authority of

statutes or other ordinances against a person, firm, or corporation that remains in violation of this chapter.

(d) The city may disconnect the water service for violation of this chapter.

Sec. 36-29 to 36-35. Reserved.

Section 3. Repeal of Conflicting Ordinances. That except as amended herein all other provisions of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Penalty. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty Section 1-5 of the Code of Ordinances.

Section 6. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by *Chapter 52, Texas Local Government Code* and the *City of Alvin Charter*.

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapter 52, Texas Local Government Code, and the City of Alvin Charter*.

PASSED on the first reading on the _____ day of _____ 2010.

PASSED on second and final reading on the _____ day of _____ 2010.

ATTEST:

CITY OF ALVIN, TEXAS:

By: _____
Thomas W. Peebles, City Clerk

By: _____
Gary Appelt, Mayor