

CHAPTER 7 – Offenses and Nuisances

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ARTICLE 07.01.00. DISCHARGE OF FIREARMS

- A. It shall be unlawful for any person, other than a peace officer in the line of duty, or any person acting in lawful defense of life or property, to fire or discharge any gun, pistol or other firearm within the corporate limits of the City of Bayou Vista, Texas. (Ord. No. 2016-12, 04-26-2016)
- B. Any person who shall violate or fail to comply with this article shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine in accordance with the general penalty provision found in **Section 01.01.06.** of this Code. (Ord. No. 16-85 §§ 1, 2, 5-22-1985)

Note: **Ordinance 2016-07**, amending Chapter 7 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 03-29-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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ARTICLE 07.02.00. NOISE NUISANCES

- A. Any unreasonably loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities to the immediate vicinity thereof is hereby declared to be a nuisance and is hereafter prohibited.
- B. Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, is hereby declared to be a nuisance and is hereafter prohibited.
- C. The following acts, among others, are declared to be nuisances in violation of this article, but said enumerations shall not be deemed to be exclusive, to-wit:
1. The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 11:00 p.m. and 8:00 a.m. as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of building.
 2. The use of any stationary loud speaker or amplifier of such intensity that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof; the use of any stationary loud speaker or amplifier operated on any week day between the hours of 10:00 p.m., and 8:00 a.m., and weekends and holidays between the hours of 11:00 p.m. and 8:00 a.m.
 3. The continued or frequent sounding of and signal or signal device on any automobile, motorcycle, bus, or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh device for any unnecessary and unreasonable period of time.
 4. The running of any automobile, motorcycle, vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.
 5. Construction Noise – noise from construction due to, but not limited to, the use of pavement breakers, pile drivers, jackhammers, compressors, pneumatic-powered equipment, electric saws, hammers, dozers, tractors, and generators during the hours between 8:00 p.m. and 7:00 a.m. on any weekday, and weekends and holidays between the hours of 8:00 p.m. and 8:00 a.m. except for emergency repairs necessary for the preservation of property protection of the safety and welfare of the property owners. (Ord. No. 02-03, Article 7.200 (c) (5) 03-11-03) (Ord. No. 01-04, Article 7.200 (c) (5) 03-02-04)

***State law references:** Authority of municipality to regulate the discharge of firearms, V.T.C.A., Local Government Code, Section 217.003.(Ord. No. 53-87, §§ 1--3, 7-1-1987)

***State law references:** Authority of municipality to restrain or prohibit the ringing of bells, blowing of horns, hawking of goods, or any other noise, V.T.C.A., Local Government Code, Section 217.003.

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ARTICLE 07.03.00. JUNKED VEHICLES

Sec. 07.03.01. Definitions

- A. As used in this article the following terms have the meanings respectively ascribed to them in this section.
1. *Antique vehicle.* A passenger car or truck that is at least twenty-five (25) years old.
 2. *Collector.* The owner of one (1) or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.
 3. *Inoperative.* Incapable of being moved with the power generated from engine mounted in the vehicle.
 4. *Junked vehicle.* A vehicle that is subject to registration under Chapter 501 of the Transportation Code that is self-propelled and ~~(1)~~ does not have lawfully attached to it:
 - a. An unexpired license plate.
Is wrecked, dismantled or partially dismantled, or discarded; or
 - b. Is inoperable and has remained inoperable for more than seventy-two (72) consecutive hours, if the vehicle is on public property; or thirty (30) consecutive days, if the vehicle is on private property.
 5. *Motor vehicle.* A motor vehicle that is subject to registration under Chapter 501 of the Transportation Code.
 6. *Police department.* The police department of the City.
 7. *Special interest vehicle.* A motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
 8. *City.* The City of Bayou Vista, Texas. (Ord. No. 94-12, § 2, 11-1-1994; Ord. No. 99-10, 11-2-1999; Ord. No. 99-12, 11-30-1999)

Sec. 07.03.02. Junked vehicle declared a public nuisance.

- A. A junked vehicle which is located in any place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of the private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the City of Bayou Vista by producing urban blight which is adverse to the maintenance and continuing development of the City, and is hereby declared to be a public nuisance. (Ord. No. 94-12 § 3, 11-1-1994)

***State law references:** Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, Chapter 683.

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Sec. 07.03.03. Unlawful to create or to maintain such nuisances.

- A. It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided), within the City, any junked vehicle or parts or portions thereof, for any period of time in excess of ten (10) days.
- B. A person commits on offense if that person maintains a public nuisance for any period of time in excess of ten (10) days. (Ord. No. 94-12, § 4, 11-1-1994)

Sec. 07.03.04. Entry powers of City officials, powers of municipal court.

- A. Any person authorized by the City to administer the provisions of this article may enter upon private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The municipal court shall have authority to issue all orders necessary to enforce such procedures.
(Ord. No. 94-12 § 5, 11-1-1994)

Sec. 07.03.05. Administration authority to enforce.

- A. Whenever it shall be determined by the chief of police or any full time salaried city officer acting under his direction that a junked vehicle or part thereof, is located so as to be visible from a public place or public right-of-way, thereby constituting a public nuisance. Notice shall be given as follows:
 - 1. Notice when located on private property:
 - a. For a nuisance on private property there shall be given not less than seven (7) days notice stating the nature of the public nuisance on private property, that it must be removed and abated within seven (7) days following service of notice to abate such nuisance. (Ord. No. 08-05, 07-12-05)
 - b. If not abated by such day a hearing will be held by the municipal judge of the City of Bayou Vista. The notice shall set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder or record, and to the owner or occupant of the private premises upon which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.
 - c. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than seven (7) days after the date of the return; (Ord. No. 08-05, 07-12-05)
 - 2. Notice when located on public property:
 - a. For a nuisance on public property, there shall be given not less than seven (7) days notice stating the nature of the public nuisance on public property or on a public right-of-way, that it must be removed and abated within seven (7) days following service of notice to abate such nuisance, and that if not abated by such day a hearing shall be held by the Municipal Judge of the City of Bayou Vista. The notice must set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. (Ord. No. 08-05, 07-12-05)

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- b. The notice shall be mailed, by certified mail with a five (5) days return receipt requested, to the last known registered owner of the junked vehicle, any lienholder or record, and to the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.
 - c. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than seven (7) days after the date of the return.
3. A public hearing must be had before the municipal judge of the City of Bayou Vista prior to the removal of the vehicle or part thereof as a public nuisance, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within seven (7) days after service of notice to abate the nuisance. At the hearing, it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. A resolution or order requiring the removal of the vehicle or part thereof must include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site. (Ord. No. 94-12, § 6, 11-1-1994, Ord. No. 08-05, 07-12-05)

Sec. 07.03.06. Order by municipal judge

- A. After the hearing is held by the judge of the municipal court of the City, as herein provided, if said municipal judge finds that such a nuisance as herein defined exists, he shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within seven (7) days after said order is given to such owner or occupant of the premises on which said vehicle is located.
- B. It shall be unlawful and a violation of this section for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by said order. (Ord. No. 94-12, § 7, 11-1-1994)(Ord. No. 08-05, 07-12-05)

Sec. 07.03.07. Duty of owner or occupant of the premises.

- A. In the event the owner or occupant of the premises does not request a hearing as hereinabove provided, it shall be his duty to comply with the provisions of the notice given to him and to abate such nuisance within seven (7) days after the date of the receipt of such notice. (Ord. No. 94-12 § 8, 11-1-1994, Ord. No. 08-05, 07-12-05)

Sec. 07.03.08. Vehicles not to be made operable.

- A. After a vehicle has been removed in accordance with or under the terms and provisions of this section, it shall not be reconstructed or made operable. (Ord. No. 94-12 § 9, 11-1-1994)

Sec. 07.03.09. Texas Department of Transportation (TxDOT)

- A. Notice shall be give the Texas Department of Transportation (TxDOT) within five (5) days after the date of removal identifying the vehicle or part thereof. The Notice shall identify the vehicle or vehicle part. (Ord. No. 94-12 § 10, 11-1-1994)(Ord. No. 2016-12, 04-26-2016)

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Sec. 07.03.10. Exemptions

- A. This section shall not apply to:
1. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
 2. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business or a licensed vehicle dealer or junkyard; or
 3. An unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means Art. 4477-9a, Sec. 5.09(g). (Ord. No. 94-12, § 11, 11-1-1994)

Sec. 07.03.11. Administration of article.

- A. The administration of this article shall be by regularly salaried, full-time employees of the City of Bayou Vista, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. (Ord. No. 94-12 § 12, 11-1-1994)

Sec. 07.03.12. Disposal of junked vehicles.

- A. A junked vehicle or a vehicle part may be disposed of by removal to a scrap yard or demolisher.
- B. It shall be unlawful for any person to reconstruct or make operable a junked motor vehicle after the vehicle has been removed under the provisions of this article.
(Ord. No. 94-12, § 13, 11-1-1994)

Sec. 07.03.13. Redress through the courts.

- A. A complaint shall be filed in the municipal court for the violation of maintaining a public nuisance, if the nuisance is not removed and abated, or a hearing is not requested within the ten-day period provided in this article. If a person is found guilty of maintaining a nuisance, the person shall order punished as provided in this article and the court shall order removal and abatement of the nuisance. (Ord. No. 94-12 § 14, 11-1-1994)

Sec. 07.03.14. Penalty

- A. Any owner or occupant of premises, including any person having ownership, occupancy or control of any property in the City of Bayou Vista on which there exists a nuisance as herein set out and shall fail, refuse or neglect to remove thereof after receiving due notice as herein set out, or refuse to abide by any order requiring the removal of said vehicle or part thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the general penalty provision found in Section 01.01.06 of this Code. Each day of the willful offense or violation constitutes a separate offense.
(Ord. No. 94-12 § 15, 11-1-1994)

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ARTICLE 07.04.00. CURFEW FOR JUVENILES

Sec. 07.04.01. Purpose

- A. It is the express purpose of this article to (a) deter criminal conduct involving juveniles, (b) reduce the number of juvenile crime victims, (c) reduce injury from accidents involving juveniles, (d) reduce the additional time police officers are required to be in the field due to juvenile crime, (e) provide additional and more effective means and options for dealing with gang-related violence and crime, (f) reduce juvenile peer pressure to stay out late, (g) reduce juvenile peer pressure to participate in violent or criminal activities, and (h) assist parents in the control of their children.

Sec. 07.04.02. Definitions

- A. For the purposes of this article the following words or terms shall have the meanings ascribed thereto:
1. *Curfew hours* shall mean:
 - a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;
 - b. 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and
 - c. 9:00 a.m. until 2:30 p.m. any Monday, Tuesday, Wednesday, Thursday or Friday
 2. *Emergency* shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. This term shall include, but not be limited to: fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
 3. *Establishment* shall mean a privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.
 4. *Guardian* shall mean:
 - a. A person who, under court order, is the guardian of the person of a minor; or
 - b. A public or private agency with whom a minor has been placed by a court.
 5. *Minor* shall mean any person under 17 years of age.
 6. *Operator* shall mean any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
 7. *Parent* shall mean a person who is:
 - (1) A natural parent, adoptive parent, or step-parent of another person; or
 - (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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8. *Public place* shall mean any place to which the public or a substantial group of the public has access and shall include, but shall not be limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. *Remain* shall mean to:
 - a. Linger or stay; or
 - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. *Serious bodily injury* shall mean bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 07.04.03. Offense

- A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.
- B. A parent or guardian of a minor commits an offense if he or she knowingly permits or, by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- C. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec. 07.04.04. Defenses

- A. It shall be a defense to prosecution under, Section 7.403 that the minor was:
 1. Accompanied by the minor's parent or guardian;
 2. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 3. In a motor vehicle involved in interstate travel;
 4. Engaged in an employment activity, or going to or returning home from, an employment activity, without any detour or stop;
 5. Involved in an emergency;
 6. On the sidewalk abutting the minor's residence;
 7. Attending an official school, religious, or recreational activity supervised by adults and sponsored by an educational or religious institution, civic organization, or other similar entity that takes responsibility for the minor; or going to or returning home from, without any detour or stop, any such official school, religious, or recreational activity supervised by adults and sponsored by an educational or religious institution, civic organization, or other similar entity that takes responsibility for the minor, or in the case of a home-schooled minor, to or from the minor's parent or guardian.

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8. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
 9. Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code; or
 10. Engaged in conduct that occurred during between the hours of 9:00 a.m. and 2:30 p.m., where any of the following were true:
 - a. the conduct occurred during school summer vacation break period of the school in which the minor is enrolled;
 - b. the conduct occurred on a holiday observed by the closure of classes at the school in which the minor is enrolled;
 - c. the conduct occurred where the minor was enrolled in the school's "early release" program; or
 - d. the minor has graduated from High School or received a High School Equivalency Certificate.
- B. It is a defense to prosecution under Section 07.04.03 C. that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 07.04.05 Enforcement

- A. Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place. A police officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense provided by Section 07.04.04 is present.
- B. Additionally, neither state law nor this curfew ordinance restricts or imposes legal ramifications to a parent or guardian taking their child out of school for doctor's appointments, emergencies, or other excused absences.

Sec. 07.04.06. Penalties.

- A. A person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than \$50.00 nor more than \$500.00. Each day of violation shall constitute a separate offense.
- B. When required by section 51.08 of the Texas Family Code as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 07.04. 03 A. and shall refer the minor to juvenile court. (Ord. 2013-02 § 1 – 6 ,01-29-13)

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ARTICLE 07.05.00. CORNER OF TRAFFIC VISIBILITY

Sec. 07.05.01. Definitions

- A. For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:
1. *Curb-line*. The boundary of that portion of any street which is improved, designed or ordinarily used for vehicular traffic.
 2. *Plant*. Any hedge, bush, shrub, vine, palm or other vegetation, except trees.
 3. *Property line*. The boundary line of any street which line marks the division between the street area and the property abutting upon the same.
 4. *Street*. The entire width of every way or place of whatsoever nature when any part thereof is open to the use of the public as a matter of right for the purpose of traffic.
 5. *Traffic*. Pedestrians, riders of animals and drivers of vehicles while using any street for the purpose of travel.
 6. *Vehicle*. Every device in, upon or by which any person or property is or may be transported or drawn upon a street, except devices moved by human power.
(Ord. No. 35-86, § 1, 1-4-1986)

Sec. 07.05.02. Certain fences prohibited.

- A. It shall be unlawful for any person to construct or replace, or cause to be constructed or replaced, any fence having a height greater than three (3) feet above the level of the center of the nearest abutting street on or in that portion of any corner lot in the City, which portion is included in a triangle on the street corner of the lot formed by a diagonal line intersecting the property lines at points twenty (20) feet from the street corner intersection of the property lines. (Ord. No. 35-86 § 2, 1-4-1986)

Sec. 07.05.03. Plants higher than three feet.

- A. It shall be unlawful for any person to place or cause to be placed any plant having a height greater than three (3) feet above the level of the center of the nearest abutting street on or in that portion of any corner lot in the City, which portion is included in a triangle on the street corner of the lot formed by a diagonal line intersecting the property lines at points twenty (20) feet from the street corner intersection of the property lines at points twenty (20) feet from the street corner intersection of the property lines.
- B. It shall be unlawful for either the owner or the occupant of any corner lot in the City to place, maintain, or permit or cause to be placed or maintained any plant having a height greater than three (3) feet above the level of the center of the nearest abutting street on or in that area which lies between the property lines of such corner lot and the curb-lines of streets abutting such property lines and which area extends for a distance of fifty (50) feet back from the intersection of the curb-lines of such abutting streets. (Ord. No. 35-86, § 3, 1-4-1986)

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Sec. 07.05.04. Obstruction of sidewalks

- A. It shall be unlawful for either the owner or the occupant of any lot in the City to place, maintain, or permit or cause to be placed or maintained any fence, tree or plant on or in the area between the property line thereof and the curb-line of any street abutting such property line in such a way as to obstruct the free passage on and use of that area by the public. (Ord. No. 35-86 § 4, 1-4-1986)

Sec. 07.05.05. Planting near fire hydrants

- A. It shall be unlawful for the owner or occupant of any property in the City to place, maintain or permit or cause to be placed or maintained thereon any tree or plant within five (5) feet of any fire hydrant in the City. (Ord. No. 35-86 § 5, 1-4-1986)

Sec. 07.05.06. Minimum clearance in sidewalk areas

- A. It shall be unlawful for the owner or occupant of any property in the City to maintain or permit limbs of trees growing thereon to overhang or grow above the area between his property line and the curb-line of any abutting street, unless such limbs and all branches and foliage thereon are kept trimmed and pruned to a minimum clearance of eight (8) feet above the street level at the nearest curb-line. (Ord. No. 35-86 § 6, 1-4-1986)

Sec. 07.05.07. Requirement of permit for construction of fences

- A. Plans and specifications shall be submitted to the building inspector for approval of the construction of new fences, additions of existing fences, or reconstruction of existing fences. A permit shall be required for such reconstruction of existing fences, which shall be issued by the building inspector. The standard fee for such permit shall be as provided for in the fee schedule found in the appendix of this Code. (Ord. No. 35-86 § 7, 1-4-1986)

Sec. 07.05.08. Abatement by the City at property owner's expense

- A. It shall be the duty of the marshal to cause a written notice to be served upon the owner or occupant of any property upon which any violations of this division exists to correct such condition as constitutes a violation of these sections within ten (10) days after serving such notice; and if such condition is not corrected or remedied or caused to be corrected or remedied by such person by the end of such (10) days' notice, the board of aldermen of the City of Bayou Vista is hereby authorized and directed to cause the tree or plant or part thereof constituting such violation to be so trimmed, pruned or removed as to eliminate the prohibited condition. (Ord. No. 35-86, § 8, 1-4-1986)

Sec. 07.05.09. Authority of building inspector to trim or remove trees and plants

- A. The building inspector is hereby authorized to remove, or cause to be removed, any trees or plants found between the branches, limbs, or foliage of any tree or plant which overhangs or grows above the area which lies between the opposite curb-lines of any street, so as to provide a minimum clearance of eight (8) feet above the street level at the curb-line and so as to be graduated toward the center of the street to a clearance of twelve (12) feet above the street level at the center of the street. (Ord. No. 35-86 § 9, 1-4-1986)

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Sec. 07.05.10. Penalty for violation

- A. Any person who shall violate the terms and provisions of this article shall upon conviction thereof, be punished by a fine in accordance with the general penalty provision found in section 1.106 of this Code, and each and every day this article is violated shall constitute a separate offense. (Ord. No. 35-86 § 10, 1-4-1986)

Note: **Ordinance 2016-07**, amending Chapter 7 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 03-29-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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ARTICLE 07.06.00. OUTSIDE LIGHT NUISANCES

Sec. 07.06.01. Definitions

- A. As used in this article, the following terms shall have the meanings respectively ascribed to them in this section.
1. *Bright and/or brilliant lights.* Shining or glowing with, “Bright” implies emitting or reflecting a high degree of light. “Brilliant” implies intense, often sparkling brightness that may or may not reflect from a surface.

Sec. 07.06.02. Outside light nuisances

- A. Any unreasonably bright and/or brilliant, disturbing, unnecessary outside light which causes material distress, discomfort or injury to person of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited.
- B. Any outside light of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by person of ordinary sensibilities, is hereby declared to be a nuisance and is hereby prohibited.

Sec. 07.06.03. Investigating city employee

- A. It will be the responsibility of the City employee investigating a nuisance complaint under this Article to determine the degree of non-compliance with this Article.

Sec. 07.06.04. Penalty

- A. Any person violating this Article shall be guilty of a misdemeanor which shall be punishable by a fine of not more than five hundred (\$500.) for each offense and each and every day this Article is violated shall constitute a separate offense. (Ord. No. 05-03 adding new Article 07.600; 7-1-03)

Note: **Ordinance 2016-07**, amending Chapter 7 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 03-29-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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ARTICLE 07.07.00. SEX OFFENDERS

Sec. 07.07.01. Definitions

- A. For the purposes of this article, the following words, terms, and phrases shall have the meanings ascribed thereto, unless the context clearly indicates otherwise.
1. *Child or children* means a person under 18 years of age.
 2. *Childcare facility* means a facility providing for the supervision, care, or education of children including, but not limited to, a day care, Montessori School, day camp, mother's day out program, a facility providing after school care; a church or other place of worship that provides children's programs or activities, child care, or nursery services, even if only incidental to religious worship.
 3. *Loitering* means entering or remaining in a prohibited area for longer than five minutes, or entering a prohibited area more than twice in 24 hours.
 4. *Park – Pool Facilities* means a public pool – park facility designed and utilized for children's activities.
 5. *School Bus Stop* means a place for school-aged children to congregate waiting to be picked up and dropped off by a public or private school system's vehicle(s) for the purpose of transportation to and from school.
 6. *Reportable conviction or adjudication* shall have the same meaning as that found in V.T.C.A., Code of Criminal Procedure art. 62001(5).
 7. *Sex offender* means a person with a reportable conviction or adjudication of a sexual offense.
 8. *Sexual offense* means those offenses requiring registration in the case of an adult offender with the Texas Department of Public Safety under the provisions of V.T.C.A., Code of Criminal Procedure ch. 62.

Sec. 07.07.02. Prohibited Areas

- A. It shall be unlawful for a sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child to be present in or on any park, playground, swimming pool facility, basketball court-area, school bus stop, active or passive recreation area or open space, child care center or church.
- B. It shall be unlawful for a sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child to loiter on a public way within one (1) statute mile from a park, playground, swimming pool facility, basketball court-area, school bus stop, active or passive recreation area or open space; child care center or church.
(Ord. No. 2018-05, 03-29-18)

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Sec. 07.07.03. Residency Restrictions

- A. It shall be unlawful for a sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child to reside within one (1) statute mile of a park, playground, swimming pool facility, basketball court-area, school bus stop, active or passive recreation area or open space; child care center or church frequented by children.
- B. A sex offender whose residence is located within 2,000 feet of the prohibited areas prior to the effective date of this article is exempt from the provisions of this residency restriction only.

Sec. 07.07.04. Property Owners Prohibited From Renting Real Property To Sex Offenders

- A. It shall be unlawful for any person, firm or corporation to knowingly let or rent any place, structure or part thereof for use as a permanent residence or temporary residence by any sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child and the property is located within one (1) statute mile as defined by Section 07.07.03 of this Article.

Sec. 07.07.05. Calculation of distance.

- A. For the purposes of this article, the distance between a residence and park, playground, swimming pool facility, basketball court-area, school bus stop, active or passive recreation area or open space; child care center or church frequented by children shall be measured from the property line of the prohibited area to the property line of the residence.

Sec. 07.07.06. Penalty

- A. Any violation of this Article will be prosecuted as a Class “C” misdemeanor and shall be fined up to five-hundred dollars (\$500.00).

Note: **Ordinance 2016-07**, amending Chapter 7 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 03-29-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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ARTICLE 07.08.00 ALARM SYSTEMS

Sec. 07.08.01. Definition

- A. Alarm system means any device or system that emits, transmits, or relays as signal or sound intended to summon emergency services of the city to a location.

Sec. 07.08.02. Providing information on access to alarm system

- A. Any person owning or controlling any residential premises where an alarm system is operated must post a plainly visible notice on the outside of the residence that contains the name and telephone number of one or more persons to contact to disable the alarm system after activation. In lieu of the posted notice, the name and telephone number of the person to contact may be provided to the city or, if in the case of a monitored alarm system, to the company monitoring the alarm.

Sec. 07.08.03. Fees for city response to alarm signal

- A. The city will not charge a fee for responding to activation of an alarm system from one alarm system for the first five responses in a calendar year.
- B. The city will charge \$50.00 to the person in control of the premises for each response by the city to the activation of an alarm system from one alarm system on that premises, after the fifth response in a calendar year.

Sec. 07.08.04. Requirements for alarm systems

- A. Holdup alarms must not include a money clip, pressure pad or similar device which can cause inadvertent activation. Any holdup alarm must be designed so that it can be activated only by intentional and deliberate human action.
- B. Alarm systems must not be equipped with a dialing device that automatically sends a prerecorded message indicating activation of the alarm system to the police or fire department unless the device is equipped with a means to automatically disconnect and discontinue the transmittal of the prerecorded message after the message has been communicated to the police department or fire department.
- C. It is unlawful for any person in control of a premises where an alarm system is located to knowingly operate or allow any other person to operate an alarm system if any fee assessed by the city for responding to an alarm system as provided in this article has not been paid within 30 days of the date the city mails a notice requesting payment of the assessed fee. For purposes of this paragraph, it is a rebuttable presumption that the person in control of the premises where the alarm system is located received the city's written notice of the fee assessed if the city mailed the notice to the address listed for billing of utility services for the premises where the alarm system is located.
- D. It is unlawful for any person who owns or controls premises where an alarm system is located to fail to repair a defective or malfunctioning alarm system within ten days after the person had notice that the alarm system was defective or malfunctioning.
- E. It is unlawful for any person who owns or controls a premise where an alarm system is located to allow an activated alarm system to emit a sound that is clearly audible from the exterior of the structure or building where located for more than one hour, unless the activated alarm is a fire alarm. (Ordinance 2013-05; 05-28-13)

Note: **Ordinance 2016-07**, amending Chapter 7 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 03-29-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word "village" for the word "City".

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Article 07.09.00 RESIDENTIAL LOT USE AND RESTRICTIONS

Sec. 07.09.01. Purpose

- A. For the purpose of continuing to preserve and enhance the privacy and quiet enjoyment of residents of the City of Bayou Vista by creating development standards for lots restricted or used for single-family residential use, and to insure uniformity for the use and occupancy of the such lots as residential waterfront sites for the benefit, use and convenience of each owner.

Sec. 07.09.02. Residential Lot Restrictions and Development Standards

- A. No lot restricted or used for single-family residential use (hereinafter called a “residential lot”) shall be used for anything other than residential purposes, and shall not be used directly or indirectly for the conduct of any business whatsoever, commercial or otherwise. Any rental of all or part of a building on a residential lot for a term shorter than 30 days shall be deemed to be a commercial purpose and shall be unlawful. Notwithstanding the foregoing, the following exception shall apply:
1. This provision is not intended to restrict a person from doing paperwork for their off-site business at home nor making or taking telephone calls at home to support their off-site business interests.
 2. Only one (1) building shall be erected on a residential lot or multiple lots treated as a single residential lot; provided however, one additional outbuilding or other roofed or walled structure shall also be permitted as necessary for comfort, pleasure and convenience of the building used and occupied as a dwelling house. All such outbuildings shall correspond in style and outside finish material to the dwelling house and comply with all building codes established by the City of Bayou Vista.
 3. During the construction of a dwelling, no temporary building, tent, motor home or travel trailer of any type shall be placed upon any residential lot during the construction process, nor at any other time.
- B. One (1) motor home or one (1) travel trailer may be stored on a lot used for residential purposes or restricted to single-family residential use. The motor home or travel trailer shall be deemed to be stored if it is closed with slide-outs/pop-ups retracted, unoccupied, and does not have water connected to it. The motor home or travel trailer shall be deemed to be occupied if it is occupied by any person and/or water is connected to it. It shall be unlawful for any motor home or travel trailer to be occupied at any time without a valid permit. The motor home or travel trailer shall be located entirely on a residential lot and shall not extend to any adjacent lot. Effective June 1, 2018, the motor home or travel trailer shall be located on concrete, asphalt or gravel surface within a residential lot. The building official may issue a permit for the motor home or travel trailer to be occupied under the following limited circumstances:
1. In the event of a catastrophic event that results in the destruction of the original residence or otherwise renders such residence uninhabitable, the owner of the residential lot or the lot restricted to single family residential use may, after obtaining a permit, occupy the motor home or travel trailer until the issuance of the certificate of occupancy for the reconstruction of the residence or six (6) months, whichever is earlier, or

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2. An owner of the residential lot or a lot restricted to single family residential use, after obtaining a permit, may occupy (or allow his guests to occupy) the motor home or travel trailer, with a maximum of four occupants, for a period not to exceed two weeks. No more than six (6) permits under this subsection may be issued in any given year and at least two weeks must expire after the expiration of a permit before another permit may be issued for the same lot. (Ord. No. 2018-06, 04-24-2018)
- C. No more than three (3) trailers, inclusive of one (1) Motor home/Travel Trailer and no more than two (2) golf carts and/or ATV's in total, in public view, on a lot used for residential purposes or restricted to single-family residential use.
- D. All motor homes, travel trailers, boats and boat trailers that do not have current state license, registration and inspection stickers shall not be stored outside or left on any residential lot for a period to exceed three (3) months.
- E. No residential lot shall be used for the purpose of storing construction materials, construction debris, or any other material related to the construction or improvement of a residential dwelling or outbuilding, unless there is active construction or improvements occurring at that site. Construction sites shall comply with all applicable regulations established by the City of Bayou Vista.
- F. If any of the restrictions or development standards provided for in this Section would result in an unnecessary hardship for a residential lot owner, then such owner may seek a variance from such applicable provisions of this Section from the Board of Aldermen of the City of Bayou Vista. A variance may be granted only if such variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this Section would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. An unnecessary hardship may not be based solely on economic hardship.

Sec. 07.09.03. Penalty

- A. The first violation of any provision of this Chapter shall constitute a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or the maximum allowed by law, whichever is greater. The second violation of the same provision of this Chapter within one year from the date of the first violation shall constitute a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) or the maximum allowed by law, whichever is greater. The third violation or subsequent violation of the same provision of the Chapter within one year from the date of the previous violation shall constitute a fine of not less than four hundred dollars (\$400.00) nor more than five hundred dollars (\$500.00) or the maximum allowed by law, whichever is greater. Each violation and each day the violation continues shall constitute a separate offense. (Ord. No. 2018-05, 3-27-2018)

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ARTICLE 07.10.00 PERSONAL WATERCRAFT (“PWC”) LIFT

Sec. 07.10.01 PWC Lift in Side Setback is a Nuisance

- A. Except while launching and recovering a Personal Watercraft for a period not to exceed fifteen (15) minutes, all or part of a Personal Watercraft lift that extends into any side set back is hereby declared to be a nuisance and is hereafter prohibited.

Sec. 07.10.02 Penalty

- A. Any person violating this Article shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed the maximum allowed by law for each offense and each and every day that this Article is violated shall constitute a separate offense. (Ord. No. 2018-07, 6-26-2018)