



AGENDA
CITY COUNCIL REGULAR MEETING
FEBRUARY 21, 2017 at 5:30 P.M.
CITY HALL COUNCIL CHAMBERS
815 NORTH KILGORE STREET

R. E. SPRADLIN, III – MAYOR
HARVEY MCCLENDON – MAYOR PRO TEM, PLACE 2
MERLYN HOLMES – COUNCIL MEMBER, PLACE 1
NEIL BARR – COUNCIL MEMBER, PLACE 3
VICTOR A. BOYD – COUNCIL MEMBER, PLACE 4

Citizens may address the Council regarding any posted agenda item by filling out a speakers' card prior to the item being called. These presentations shall be limited to three minutes. The Mayor may extend the time limit.

A. Call to Order – Mayor Spradlin

B. Opening Prayer – Rev. Ron Strait, Highland Park Assembly of God

C. Pledges of Allegiance – U.S. flag and Texas flag (*“Honor the Texas flag. I pledge allegiance to thee, Texas, one state under God, one and indivisible.”*)

D. Approval of the Agenda

This section shall approve of the order and content of the agenda. The Mayor or any Council member may ask for the order and/or content of the agenda to be modified under this item upon consent of a majority of the Council.

E. Public Forum

Citizens have an opportunity to address the City Council, which has no obligation to respond in any manner to comments or questions asked of them by the speaker. Any response by a member of the City Council is limited by Texas law to a statement of specific factual information, a recitation of existing policy, or a proposal to place the subject on the agenda for a future City Council meeting.

F. Items of Community Interest

This section of the agenda shall allow any member of the City Council, the Mayor, or the City Manager the opportunity to discuss minor, non-action items such as recognitions, scheduling, and upcoming civic events that are not listed on this agenda and which require no action by the Council.

G. Presentations

- 1.** Recognition of Brant Prestidge for 15 years' service with the City of Kilgore – Fire Chief Johnny Bellows
- 2.** Recognition of Deborah Dane for five years' service with the City of Kilgore – Josh Selleck, City Manager
- 3.** Recognition of Patricia Davis for five years' service with the City of Kilgore – Police Chief Todd Hunter
- 4.** 2016 Annual Contact Report for Kilgore Police Department by Del Carmen Consulting, LLC – Chief Hunter

Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.

Instructions: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 Must be equal

2. Total on line 20 Must equal line 15

Number of Motor Vehicle Stops:

1. 2704 citation only

2. 100 arrest only

3. 203 both

4. 3007 Total

Race or Ethnicity:

5. 756 African

6. 14 Asian

7. 1671 Caucasian

8. 556 Hispanic

9. 9 Middle Eastern

10. 1 Native American

11. 3007 Total

Race or Ethnicity Known Prior to Stop?

12. 372 Yes

13. 2635 No

14. 3007 Total

Search Conducted:

15. 149 Yes

16. 2858 No

17. 3007 Total

Was Search Consented?

18. 94 Yes

19. 55 No

20. 149 Total Must Equal # 15

Analysis

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific "individual" racist behavior from aggregate-level "institutional" data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Kilgore Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Kilgore Police Department commissioned the analysis of its 2016 motor vehicle contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2016 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the "other" category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2016 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Kilgore Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Kilgore Police Department in 2016 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of "households" that have access to vehicles. Thus, proposing to compare "households" (which may have multiple residents and only a few vehicles) with "contacts" (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Kilgore Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its "good will" and "transparency" before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to Kilgore.

The final analysis was conducted while using the 2004--2009 traffic data and the 2010--2016 motor-vehicle related data. Specifically, all traffic-related contacts made in 2009 were compared to similar figures reported in 2004, 2005, 2006, 2007 and 2008. Similarly, motor vehicle contact data was compared while using data from 2010, 2011, 2012, 2013, 2014, 2015 and 2016. There is no question that the comparison of thirteen years of traffic/motor vehicle contact data highlight areas of consistency with regards to traffic and motor vehicle-related contacts. That is, the thirteen-year comparison has the potential of revealing indicators that a possible trend of traffic and motor vehicle-based contacts with regards to members of a specific minority group, may in fact, develop.



**MINUTES
REGULAR CITY COUNCIL MEETING
FEBRUARY 7, 2017**

**R. E. SPRADLIN, III – MAYOR
HARVEY MCCLENDON – MAYOR PRO TEM
MERLYN HOLMES – COUNCIL MEMBER
NEIL BARR – COUNCIL MEMBER
VICTOR A. BOYD – COUNCIL MEMBER**

- A. Call to Order** – Mayor Spradlin called the meeting to order at 5:30 p.m. and noted the absence of Mayor Pro Tem McClendon from this meeting.
- B. Prayer** – Rev. Jayson Galler of Pilgrim Lutheran Church led the opening prayer.
- C. Pledges of Allegiance – U.S. flag and Texas flag** – Council Member Holmes led the pledges.
- D. Approval of the Agenda (02:37 on 02/07/17 Council Recording)**

Motion: Council Member Holmes made the motion to approve the agenda as presented. Council Member Barr seconded the motion, which carried unanimously.

E. Public Forum (3:13 on 02/07/17 Council Recording)

Mayor Spradlin opened the Public Forum and recognized Billie Cleary-White of 255 CR 1130 and Dee McComic of 3988 Old Highway 135 South, who asked Council to consider amending the cemetery rules and regulations to allow for flowers to be placed on Mother’s and Father’s Days and flags to be displayed at all times on the gravesites of service members. Mayor Spradlin thanked the speakers and closed the Public Forum.

F. Items of Community Interest (5:47 on 2/07/17 Council Recording)

- **February 11** – Kilgore to Longview 11-mile race, beginning at 8:00 a.m., from Downtown Kilgore to the Longview Rodeo Arena, sponsored by the Longview Running Club and Habitat for Humanity
- **February 11** – Mardi Gras celebration at 2 Brothers Po-Boys in Downtown Kilgore
- **February 14 and 16** – Corridor Overlay meetings between the City and property owners in the Entry Corridor Overlay District
- **February 16** - Kilgore Chamber’s Morning Brew at Arbor Grace Nursing Home (formerly Gregg Home) from 8 to 9 a.m.
- **February 18** – KISD Education Foundation Gala, Meadowbrook Golf & Events Center, 7:00 to 9:00 p.m.
- **February 25** – “Doughboys & Dames” fundraiser for East Texas Treatment Center at National Guard Armory
- **February 26-28** – East Texas Coalition in Austin to visit with legislators
- **March 4** – Red and Black Ball sponsored by Kilgore Legacy Foundation

- **March 16** – Citizens Police Academy begins at Kilgore Police Department – classes held every Thursday night until May 11

G. Presentations (9:25 on 02/07/17 Council Recording)

1. Longview Police Chief Mike Bishop, member of the Texas Police Chiefs Association, presented the Texas Best Practices certificate to the Kilgore Police Department.
2. Ryan Polk, Tourism Manager with the Kilgore Chamber of Commerce, gave Council an update on Tourism Activity in the City of Kilgore, highlighting tourism activities in 2015 and 2016 and presenting the goals for marketing Kilgore over the next 90 days.
3. Josh Selleck, City Manager, recognized B. J. Owen on his recent certification as “Certified Building Official” from the International Code Council.
4. Mr. Selleck gave a presentation of the City’s Quarterly Investment Report for period ending December 31, 2016.
5. Mr. Selleck presented the recently-completed 2016 Annual Report for the City of Kilgore, which he said will be distributed to leaders in Kilgore and Gregg and Rusk counties, as well as others interested in Kilgore’s progress in 2016.
6. Carol Windham, Planning Director, gave an update on planned construction of townhomes in the Remington Phase III development, which is currently targeted to serve the senior citizen population. She said construction will begin soon on two homes and two townhomes in the area.
7. Seth Sorensen, Director of Public Works, gave an update on the FY17 Strategic Map regarding Interstate 20, saying that the Texas Department of Transportation has identified major improvements needed along Interstate 20 from Dallas to the Louisiana state line, including ramp and interchange upgrades at Highways 135, 42, and 31 in Kilgore.
8. Mr. Selleck spoke to Council regarding the Splash Park Project, saying that requests for proposals have been sent to six companies, and he hopes to bring their responses to Council at the next regular meeting on February 21. Although the City has fallen short of the matching grant, he said the City hopes to begin construction on the Splash Park in the spring in order to open in early summer.

H. Consent Agenda (59:14 on 02/07/17 Council Recording)

1. Minutes of City Council regular meeting on January 24, 2017
2. Joint Election Agreements with Kilgore Independent School District and Kilgore College for sharing of expenses for the May 6, 2017 General Election

Motion: Council Member Holmes made the motion to approve the Consent Agenda as presented. Motion was seconded by Council Member Barr and carried unanimously.

I. Public Hearings/Ordinances/Resolutions (59:57 on 02/07/17 Council Recording)

1. Consider approval of Ordinance No. 1678, request to change zoning from “LM” Light Manufacturing to “GC” General Commercial at various addresses on Stone Street and on US Highway 259 Business
 - Public Hearing
Mayor Spradlin recognized Carol Windham, Director of Planning, who explained to Council that this zoning change is necessary in order to encourage future commercial development in this area and prevent development of light manufacturing. She said she had received no communications protesting this zoning change, which would apply to the 1100-1200 block of Stone Street and the 1400-1500 block of US 259 Business.
 - Approval of Ordinance No. 1678

Motion: Motion was made by Council Member Holmes to approve and adopt Ordinance No. 1678 as presented. Motion was seconded by Council Member Boyd and carried unanimously.

J. Discussion and Possible Action Items (1:03:04 on 02/07/17 Council Recording)

1. Appointment by Council of one member to the Kilgore Planning and Zoning Board to fill the unexpired term for Place 5

Mayor Spradlin recognized Mrs. Windham, who told Council that Board Member Bobby Hale had recently resigned, as he has moved out of the city limits. She asked for Council recommendations of individuals who might be able to fill Mr. Hale's unexpired term. Council Member Barr recommended Sue Newburn and Jimmy Palmer, and Mayor Spradlin recommended Sandy Snow. It was the consensus of Council that each nominee should complete a formal application for the position, and Council will consider the applications at a future meeting.

I. Executive Session (1:05:13 on 02/07/17 Council Recording)

Mayor Spradlin closed the open meeting at 6:35 p.m. to convene into Executive Session to discuss the following item:

1. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072
 - a) Proposed infill project

J. Take action on items in Executive Session (1:06:01 on 02/07/17 Council Recording)

Mayor Spradlin reconvened into open meeting at 7:09 p.m., and Council took no action on the item discussed in Executive Session.

K. Adjournment

Motion: Upon a motion by Council Member Boyd and second by Council Member Holmes, the meeting was adjourned at 7:09 p.m.

ATTEST:

CITY OF KILGORE, TEXAS

DEBORAH DANE, CITY CLERK

R. E. SPRADLIN, III, MAYOR

RESOLUTION No. 17-02

A RESOLUTION REVISING AND/OR ESTABLISHING THE PURCHASING POLICIES AND PROCEDURES FOR THE CITY OF KILGORE

WHEREAS, the City of Kilgore is a home rule municipality located in Gregg and Rusk Counties, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the City Charter and legislation of the State of Texas; and

WHEREAS, in accordance with Article VII, Section 9 of the City Charter the city manager shall direct that purchases of supplies, materials or equipment by the city be made in accordance with policies adopted by the city council and as provided by state law; and

WHEREAS, the City Council desires to revise and/or establish the purchasing policies ~~relative to recent changes to Local Government Code (LGC) Chapter 252 and specifically to limits outlined in LGC Section 252.021~~ in order to create a more streamlined purchasing process;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF KILGORE, TEXAS:

PURCHASING POLICY AND PROCEDURES

The City Council, by ordinance, approves the annual operating budget for the City. The budget ~~contains details of the appropriations for contracts, supplies, materials, capital items and projects. -approximate cost of many items, specifically equipment and/or items of a capital nature.~~ With approval by the Council received in the budget ~~preparation~~ process, the administration will follow this purchasing policy:

Staff will refrain from component, separate or sequential purchases (as defined in LGC Section 252.001) for the purpose of avoiding any requirement of this policy.

General Purchase Orders

Purchase orders will be required for all purchases exceeding \$~~53~~,000.00 as follows:

- A. Department head shall prepare a requisition for a purchase exceeding \$~~53~~,000.00 and deliver the requisition to the Finance Department. The Finance Department will check account coding and availability of budget funds. Fixed asset purchase requests will undergo review of capital outlay budgets to determine if the item was included. If not budgeted or included in capital outlay detail, the City Manager will review and approve or deny the requisition.
- B. Assuming adequate funds, the Finance Department will prepare the purchase order and forward to the City Manager for signature.
- C. After the purchase order is signed by the City Manager, the Finance Department will send the purchase order to the vendor and match a copy of the purchase order to the invoice when received. All associated invoices must be signed, acknowledging receipt of the goods or services, by the appropriate department head before payment will be made.

Budgeted Capital and Equipment Rules for Large Expenditures:

- A. Purchases of \$~~403~~,000 up to the limit established in LGC 252.021 (currently \$50,000+) will require the department head to acquire at least ~~two, but preferably three~~ written quotes (including

two from historically underutilized businesses in compliance with LGC 252.0215)- to reflect price comparisons were made for the item(s) being purchased. If multiple vendors are not available, (usually in the case of specialty items) the purchase requisition shall state the vendor is the sole provider or will cite some other exemption from the competitive process. ~~These~~ Quotes shall be attached to the purchase requisition for review.

A.B. Additionally, for purchases over \$10,000 up to the limit established in LGC 252.021 (currently \$50,000+) quotes must be in written form.

B.C. Purchases requiring a method governed by LGC Chapter 252 (currently \$50,000+) shall follow one of these following processes, or any other legal process provided by law:

1. It is preferable to purchase through a cooperative purchase contract, if the items are not available locally. (This avoids the cost of the sealed competitive bid process for the City because the cooperating entity has already met the bidding requirements.)
 - a. The City must be capable of purchasing from the contract, which typically requires a separate City Council approval to participate in the cooperative agreement; and
 - b. The purchase must be presented to the City Council for approval to purchase, through this source, prior to ordering the goods or service.
 - c. Following official approval of the purchase, a purchase order will be prepared and purchasing procedures will apply as previously outlined.
2. For ~~all other~~ purchases requiring where a competitive sealed bid process is determined to be appropriate:
 - a. Plans and specifications are to be developed by the department head. It is recognized that certain projects or equipment may be too complex for the staff to develop in-house. Consultants and/or engineers may be needed from time to time to accomplish the preparation of such documents. However, the department head will have the ultimate responsibility to oversee the completion of the bid document and submit to the City Manager for approval.
 - ~~b. If an item is unbudgeted, upon City Manager approval, the item may be placed on the Council agenda for consideration. With Council approval, City staff is authorized to advertise for bids.~~
 - e.b. The City staff, through the City Clerk and/or consultant, if applicable, prepares the bid document and advertises in publications applicable to the equipment or project.
 - e.c. The City staff will open the bids at the designated time and place, and make the bid amounts a matter of public record, but will not comment as to any commitment or announce any decision. Announcement will be limited to when the City Council is scheduled to consider action on the bid.
 - e.d. After the bid opening, the City staff and consultants will review the bids received for accuracy, compliance with the specifications and cost, and prepare a recommendation for the City Council.
 - f.e. City Council will receive a summary of the bids and recommendations before making a final decision.
 - g.f. Following official approval of the purchase, a purchase order will be prepared and purchasing procedures will apply as previously outlined.
3. See LGC Chapter 252 for exemptions (Section 252.022) and purchase methods other than competitive sealed bids.
4. Additionally the City should in all bid processes reserve the right to award to the vendor that provides the “best value” to the City as allowed in LGC Section 252.043.

Budgeted Materials and Supplies:

- ~~A. Normally budgeted routine material and supply items should not exceed the required dollar bid requirements.~~

Unbudgeted and Contingency Fund:

- ~~A. If an item requires funding not appropriated in the budget, a budget amendment must be completed before awarding a bid or contract. The City Manager will have the authority to approve expenditures for unbudgeted items up to \$10,000. City Council approval will be needed for unbudgeted expenditures more than \$10,000 or if an interdepartmental budget reallocation is expected to cover the expenditure.~~
- B. The use of Contingency Funds will be at the request of the City Manager and approval of the City Council. Every effort will be made to reserve the Contingency Fund for emergency use, but will not be limited to emergency use if the expenditure is deemed necessary for the smooth operation of the City.

Consideration to Local Businesses

- A. As price quotes are obtained, additional consideration can be given to local businesses. The consideration is due because of the economic contributions a local business provides the community such as the payment of ad valorem taxes and employment opportunities for local citizens
- B. The City will follow the guidelines made available by State law. If a local vendor is not the low bidder, but the quote is within 5% of the low bid submitted by a non-local vendor, the City will consider the local economic contribution and may award the bid to the local business.

The adoption of the above will enable the administration to react quickly, with clear direction, to problems that will arise and will also give the City Council appropriate review of significant expenditures, both budgeted and unbudgeted.

PASSES AND ADOPTED by the City Council in regular session, this the 21st day of February 2017.

CITY OF KILGORE, TEXAS

ATTEST:

R.E. SPRADLIN, MAYOR

DEBORAH DANE, CITY CLERK

APPROVED AS TO FORM AND EFFECT:

ROBERT G. SCHLEIER, JR., CITY ATTORNEY

ORDINANCE NO. 1679

AN ORDINANCE OF THE CITY OF KILGORE, TEXAS, AMENDING SECTION 5-03 ET SEQ OF THE KILGORE CODE OF ORDINANCES, ADOPTING THE 2012 INTERNATIONAL FIRE CODE; PROVIDING A CUMULATIVE CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

Be It Ordained by the City Council of the City of Kilgore:

SECTION 1. That certain documents, three (3) copies of which are on file in the office of the City Clerk of the City of Kilgore, being marked and designated as the 2012 International Fire Code, including Appendix Chapters A-G, as published by the International Code Council, be and is hereby adopted as the Fire code of the City of Kilgore, in the State of Texas, for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life and property in the occupancy of buildings and premises in the City of Kilgore as herein provided and providing for the issuance of permits and collection of fees therefore, and each and all of the regulations, provisions, conditions and terms of said 2012 International Fire Code, published by the International Code Council, on file in the office of the City Clerk of the City of Kilgore are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

SECTION 2. The following sections of the 2012 International Fire Code are hereby revised:

Section 101.1 Title, is revised as follows:

These regulations shall be known as the Fire Code of the City of Kilgore, Texas, hereinafter referred to as "this code."

Section 109.3, Violation penalties, is revised as follows:

Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction document or directive of the code official, or of a permit or certificate issued under provisions of this code, shall be subject to the penalty provided in [section 1.01.009](#) of the Kilgore Code of Ordinances. Each act constituting a violation of this code and each failure or refusal to comply with any provision of this code shall be a separate offense and shall be punished as such. Each separate day of such violation, failure or refusal to comply shall be a separate offense and shall be punished as such.

Section 114.4, Failure to comply, is revised as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine up to the maximum allowable by law.

(Ordinance 1388, sec. 2, adopted 8/12/08)



Sec. 5.03.003 Limits on storage of flammable liquids and liquefied petroleum gas

The limits referred to in certain sections of the most current International Fire Code are hereby

established as follows:

Section 3204.3.1.1. The storage of flammable cryogenic fluids in stationary containers is limited to 3,000 gallons.

Section 3404.2.9.5.2. The storage of class I and class II liquids in above-ground tanks outside of buildings is limited to 640 gallons or a greater amount determined appropriate and permitted by the fire marshal.

Section 3406.2.4.4. The storage of class I and class II liquids in above-ground tanks is limited to 640 gallons or a greater amount determined appropriate and permitted by the fire marshal.

Section 3804.2. The storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas to 250 gallons residential.

(Ordinance 1388, sec. 3, adopted 8/12/08; Ordinance 1483 adopted 11/23/10)

Sec. 5.03.004 Enforcement officer

The code adopted by the provisions of this article shall be enforced by the fire marshal. (1987 Code, sec. 8-23)

Sec. 5.03.006 Modifications

The fire marshal shall have the power to modify any of the provisions of the code adopted in this article, upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed, and the decision of the fire marshal and approval by the fire chief thereon, shall be entered upon the records of the fire department and a signed copy shall be furnished to the applicant. (Ordinance 1533, sec. 1D, adopted 1/10/12)

Sec. 5.03.007 Appeals from decision of fire marshal

Whenever the fire marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code adopted in this article do not apply or that the true intent and meaning of such code has been misconstrued or wrongly interpreted, the applicant may, within thirty (30) days, appeal from the decision of the fire marshal to the International Code Board of Appeals. (1987 Code, sec. 8-26)

Sec. 5.03.008 Penalty

(a) Any person who shall violate any of the provisions of the code adopted in this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed in this section, shall severally, for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in [section 1.01.009](#) of this code. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall

constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

SECTION 3. Cumulative Clause This ordinance shall be cumulative of all provisions of the City of Kilgore, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed provided, however, that the repeal of an ordinance by this ordinance does not affect the prior operation of the ordinance or any prior action taken under it, any obligation or liability previously acquired, accrued, or incurred under such prior ordinance, any violation of the prior ordinance or any penalty, forfeiture, or punishment incurred under said ordinance before its repeal; any prosecution, investigation, proceeding or remedy under said prior ordinance and the penalty, forfeiture, or punishment imposed as a result of such prosecution, investigation, proceeding or remedy shall be imposed as if the prior ordinance had not been repealed.

SECTION 4. Severability Clause That if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City in adopting this ordinance that no portion hereof or provision hereof shall be inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation, and to this end all provisions of this ordinance are declared to be severable.

SECTION 5. Savings Clause All rights and remedies of the City of Kilgore are expressly saved as to any and all violations of the provisions of any ordinances that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. That the City of Clerk of the City of Kilgore shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

PASSED AND APPROVED this the 21st day of February, 2017.

R. E. SPRADLIN, III, MAYOR

ATTEST:

DEBORAH DANE, CITY CLERK

APPROVED AS TO FORM AND EFFECT:

ROBERT G. SCHLEIER JR., CITY ATTORNEY

ORDINANCE NO. 1680

AN ORDINANCE OF THE CITY OF KILGORE, TEXAS, AMENDING SECTION 5-301 ET SEQ OF THE KILGORE CODE OF ORDINANCES, ADOPTING THE 2012 INTERNATIONAL SWIMMING POOL AND SPA CODE; REPEALING ORDINANCE NUMBER 586 ; PROVIDING A CUMULATIVE CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

Be It Ordained by the City Council of the City of Kilgore:

SECTION 1. That certain documents, three (3) copies of which are on file in the office of the City Clerk of the City of Kilgore, being marked and designated as the 2012 International Swimming Pool and Spa Code, as published by the International Code Council, be and is hereby adopted as the code of the City of Kilgore for regulating the design, construction, movement, renovation, repair, location, relocation, replacement, addition to, maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such 2012 International Swimming Pool and Spa Code, published by the International Code Council, on file in the office of the City Clerk of the City of Kilgore are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

SECTION 2. The following sections of the 2012 International Swimming Pool and Spa Code are hereby revised:

Section 101.1 Insert: City of Kilgore

Section 105.6.2 Insert: Permit Fee Schedule adopted October 25, 2016 as Resolution No.16-26

Section 106.6.3 Fee Refunds

The code official shall authorize the refunding of any fee paid which was erroneously paid or collected; when no work has been done under a permit issued in accordance with this code; or when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended

Section 107.4 Violation Penalty

(a) Any person who shall violate any of the provisions of the code adopted in this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed in this section, shall severally, for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine up to the maximum allowed by law. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

SECTION 3. That Ordinance No 586 of the City of Kilgore adopted February 16, 1976 and all other ordinances or parts of laws in conflict herewith are hereby repealed

SECTION 4. Cumulative Clause This ordinance shall be cumulative of all provisions of the City of Kilgore, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed provided, however, that the repeal of an ordinance by this ordinance does not affect the prior operation of the ordinance or any prior action taken under it, any obligation or liability previously acquired, accrued, or incurred under such prior ordinance, any violation of the prior ordinance or any penalty, forfeiture, or punishment incurred under said ordinance before its repeal; any prosecution, investigation, proceeding or remedy under said prior ordinance and the penalty, forfeiture, or punishment imposed as a result of such prosecution, investigation, proceeding or remedy shall be imposed as if the prior ordinance had not been repealed.

SECTION 5. Severability Clause That if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City in adopting this ordinance that no portion hereof or provision hereof shall be inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation, and to this end all provisions of this ordinance are declared to be severable.

SECTION 6. Savings Clause All rights and remedies of the City of Kilgore are expressly saved as to any and all violations of the provisions of any ordinances that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. That the City of Clerk of the City of Kilgore shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

PASSED AND APPROVED this the 21st day of February, 2017.

R. E. SPRADLIN, III, MAYOR

ATTEST:

DEBORAH DANE, CITY CLERK

APPROVED AS TO FORM AND EFFECT:

ROBERT G. SCHLEIER JR., CITY ATTORNEY

ORDINANCE NO. 1681

AN ORDINANCE OF THE CITY OF KILGORE, TEXAS, AMENDING SECTION 5-161 ET SEQ OF THE KILGORE CODE OF ORDINANCES, ADOPTING THE 2012 INTERNATIONAL EXISTING BUILDING CODE: PROVIDING A CUMULATIVE CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

Be It Ordained by the City Council of the City of Kilgore:

SECTION 1. That certain documents, three (3) copies of which are on file in the office of the City Clerk of the City of Kilgore, being marked and designated as the 2012 International Existing Building Code, including Appendix Chapters A-B, as published by the International Code Council, be and is hereby adopted as the Existing Building code of the City of Kilgore, in the State of Texas, for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefore, and each and all of the regulations, provisions, conditions and terms of said 2012 International Existing Building Code, published by the International Code Council, on file in the office of the City Clerk of the City of Kilgore are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

SECTION 2. The following sections of the 2012 International Existing Building Code are hereby revised:

Section 101.1 Title

The provisions shall be known as the Existing Building Code of the City of Kilgore, Texas, and shall be cited as such and will be referred to herein as "this code".

Section 105.1 Applicability

Structures existing prior to February 21, 2017

SECTION 3. Cumulative Clause This ordinance shall be cumulative of all provisions of the City of Kilgore, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed provided, however, that the repeal of an ordinance by this ordinance does not affect the prior operation of the ordinance or any prior action taken under it, any obligation or liability previously acquired, accrued, or incurred under such prior ordinance, any violation of the prior ordinance or any penalty, forfeiture, or punishment incurred under said ordinance before its repeal; any prosecution, investigation, proceeding or remedy under said prior ordinance and the penalty, forfeiture, or punishment imposed as a result of such prosecution, investigation, proceeding or remedy shall be imposed as if the prior ordinance had not been repealed.

SECTION 4. Severability Clause That if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City in adopting this ordinance that no portion hereof or provision hereof shall be inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation, and to this end all provisions of this ordinance are declared to be severable.

SECTION 5. Savings Clause All rights and remedies of the City of Kilgore are expressly saved as to any and all violations of the provisions of any ordinances that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by

this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. That the City of Clerk of the City of Kilgore shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

PASSED AND APPROVED this the 21st day of February, 2017.

R. E. SPRADLIN, III, MAYOR

ATTEST:

DEBORAH DANE, CITY CLERK

APPROVED AS TO FORM AND EFFECT:

ROBERT G. SCHLEIER JR., CITY ATTORNEY

ORDINANCE NO. 1682

AN ORDINANCE OF THE CITY OF KILGORE, TEXAS, AMENDING SECTION 5-31 ET SEQ OF THE KILGORE CODE OF ORDINANCES, ADOPTING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE; PROVIDING A CUMULATIVE CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

Be It Ordained by the City Council of the City of Kilgore:

SECTION 1. That certain documents, three (3) copies of which are on file in the office of the City Clerk of the City of Kilgore, being marked and designated as the 2012 International Property Maintenance Code, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Kilgore, in the State of Texas; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said 2012 Property Maintenance Code, published by the International Code Council, on file in the Office of the City Clerk of the City of Kilgore, are hereby referred to, adopted, and made apart hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribe in Section 2 of this ordinance.

SECTION 2. The following sections of the 2012 International Property Maintenance Code are hereby revised:

Section 101.1 Title

These regulations shall be known as the Property Maintenance Code of the City of Kilgore, Texas, hereinafter referred to as "this code."

Section 103.1 General; 103.2 Appointments; and Section 103.3 Deputies

Enforcement for the Property Maintenance Code of the City of Kilgore, Texas shall be the responsibility of the building inspectors, code enforcement officer and building officials operating in the Department of Special Services. They shall also have power to issue citations to enforce this ordinance. Any violations of this ordinance shall be subject to the penalty provided in Sec. 1-9 of the Kilgore Code of ordinances. Each separate day of such violation, failure or refusal to comply shall be a separate offense and shall be punished as such.

Section 106.3 Prosecution of violation *shall be amended to include:*

Upon failure to comply with the notice of violation for any part of this code, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and abate the violation and the costs of such abatement and all administrative costs, a minimum of \$175.00, shall be paid by the owner or agent responsible for the property.

- 1) The City Manager or his designee may assess expenses incurred against the real estate on which the work is done or improvements made.
- 2) To obtain a lien against the property, the City Manager or his designee must file a statement of expenses with the county clerk of Gregg or Rusk, dependant upon

where the property lies. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk.

(3) The lien obtained by the City Manager or his designee is security for the expenditures made and interest accruing at the rate of 10 percent on the amount due from the date of payment by the city.

(4) The lien is inferior only to:

- (a) tax liens; and
- (b) liens for street improvements.

(5) The City Council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(6) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(7) The remedy provided by this section is in addition to other penalties provided in this chapter or any other remedy provided by law.

(8) The City Council may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Section 202 Definitions *shall be amended to include:*

Developed property shall mean any tract of land or lot on which any structure or paving currently exists or has previously existed as proven by evidence on the tract or lot or by affidavit.

Clearing trees or vegetation from a tract or lot shall not, by itself, be construed to render the affected tract or lot "developed property" within the meaning of this article.

Undeveloped property shall mean any tract of land or lot which is not developed property.

302.1 Sanitation *shall be amended to read:*

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the corporate limits of the city to allow:

Refuse, rubbish, junk, litter, trash, debris (vegetative, building or other), garbage, discarded items, carrion, filth, animal or human feces, or any other unsightly or unsanitary matter to accumulate or remain on any lot or tract of land within the corporate limits of the city regardless of the size of said lot or tract of land, whether developed or undeveloped, commercial or residential, occupied or unoccupied.

Section 302.2 Grading and drainage *shall be amended to read:*

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the corporate limits of the city to allow any holes, places, objects, or matter on any lot, tract or parcel of land where water accumulates and becomes stagnant, or to permit same to remain.

302.4 Weeds *shall be amended to read*

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Adjacent property owners shall be responsible for maintaining property to the edge of the roadway or the back of the curb.

It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the corporate limits of the city to allow:

- 1) On undeveloped property (including, but not limited to, any right-of-way, easement, or drainage ditch) grass, weeds, or brush where any portion of the grass, weeds, or brush is in excess of 12 inches in height to grow uncultivated within 20 feet of the edge of any improved roadway or public street within the corporate limits of the city.
- 2) On all other property (including, but not limited to, any right-of-way, easement, or drainage ditch), grass, weeds, or brush in excess of 12 inches in height to grow uncultivated.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the City of Kilgore.

302.5 Rodent harborage *shall be amended to read:*

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the corporate limits of the city to allow:

Any condition that provides harborage for rodents or other vermin or that creates a fire hazard to accumulate or remain on any premises in the city. Such conditions include, but are not limited to, weeds, overgrown vegetation, downed timber, brush, old logs, decaying vegetation, junk, refuse, rubbish and garbage.

Section 303.14 Insect screens

Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

602.3 Heat supply

Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

602.4 Occupiable work spaces

Indoor occupiable workspaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engage in vigorous physical activities.

SECTION 3. Cumulative Clause This ordinance shall be cumulative of all provisions of the City of Kilgore, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed provided, however, that the repeal of an ordinance by this ordinance does not affect the prior operation of the ordinance or any prior action taken under it, any obligation or liability previously acquired, accrued, or incurred under such prior ordinance, any violation of the prior ordinance or any penalty, forfeiture, or punishment incurred under said ordinance before its repeal; any prosecution, investigation, proceeding or remedy under said prior ordinance and the penalty, forfeiture, or punishment imposed as a result of such prosecution, investigation, proceeding or remedy shall be imposed as if the prior ordinance had not been repealed.

SECTION 4. Severability Clause That if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, or for any reason unenforceable, the validity of the remaining portions of this

ordinance shall not be affected thereby, it being the intent of the City in adopting this ordinance that no portion hereof or provision hereof shall be inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation, and to this end all provisions of this ordinance are declared to be severable.

SECTION 5. Savings Clause All rights and remedies of the City of Kilgore are expressly saved as to any and all violations of the provisions of any ordinances that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. That the City of Clerk of the City of Kilgore shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval by law.

PASSED AND APPROVED this the 21th day of February, 2017

CITY OF KILGORE, TEXAS

ATTEST:

R. E. SPRADLIN, III, MAYOR

DEBORAH DANE, CITY CLERK

APPROVED AS TO FORM AND EFFECT:

ROBERT G. SCHLEIER, JR., CITY ATTORNEY