

CITY OF BRACKETTVILLE  
ORDINANCE #2020-11-08

AN ORDINANCE OF THE CITY OF BRACKETTVILLE, TEXAS REGARDING CERTAIN HEALTH AND SANITATION NUISANCES GENERALLY AND ESTABLISHING THE SAME AS PUBLIC NUISANCES; ESTABLISHING JUNKED AND ABANDONED VEHICLES ON PUBLIC AND PRIVATE PROPERTY AS PUBLIC NUISANCES; ESTABLISHING A PROCEDURE FOR ABATEMENT OF PUBLIC NUISANCES; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, the City Council of the City of Brackettville seeks to maintain the value of the City's scenic and natural resources, which are advantageous to the quality of life of its citizens; and

**WHEREAS**, the City Council of the City of Brackettville finds that specific nuisances may be safety hazards that constitute a public health risk; and

**WHEREAS**, the City Council of the City of Brackettville finds that proper maintenance of property can create a pleasing environment for visitors and residents alike; and

**WHEREAS**, the City Council of the City of Brackettville recognizes the need for a process in which to abate public nuisances within the City limits; and

**WHEREAS**, the City Council of the City of Brackettville has deemed that establishing procedures for the abatement of public nuisances is necessary for the government, interest, welfare, and good order of the City and its citizens; and

**WHEREAS**, the City of Brackettville has the legal authority to enact these regulations pursuant to the municipality's inherent police powers, Texas Transportation Code Chapter 683, Texas Local Government Code Chapters 51 and 217, and Texas Health & Safety Code Chapter 342.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRACKETTVILLE, TEXAS

**SECTION 1. DEFINITIONS**

As used in this ordinance, the following words, terms, and phrases shall be defined as follows:

Abate or Abatement - shall mean to eliminate or cure by removal, repair, rehabilitation, or demolition.

Approved Receptacle - shall also mean a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

Brush - shall mean any low woody vegetation, dense undergrowth, decaying scrub vegetation or the dead remains of such.

Building - shall mean a structure built for the support, shelter, or enclosure of a person, chattel, machine, equipment, or other movable property.

Easement, for the purpose of this chapter, - shall mean a grant by a property owner to the public or other entity for the use of a defined strip of land, for such purpose as the installation, maintenance, and/or repair of utility lines, or other public services whose ownership and care of the land encompassed by such easement is maintained by the property owner.

Junk - shall mean used iron, metal, furniture, tires, appliances, and other similar items openly stored, discarded, or abandoned on property or premises.

Litter - shall mean any garbage, refuse, rubbish, or junk as defined herein, and all other waste material which creates a nuisance or potential danger to public health, safety, and welfare if not deposited in an approved receptacle.

Occupant - shall mean any person living or sleeping in a building or having possession of a space within a building.

Owner - shall mean any person, agent, firm, partnership, corporation, association, family, group, occupant, owner's agent, property manager, lessee, renter, or tenant. It also includes the singular and plural.

Person - shall mean any individual, firm, partnership, corporation, association, family, group, occupant, owner's agent, property manager, lessee, renter, or tenant. It also includes the singular and plural.

Premises - shall mean a lot, plot, or parcel of land including the buildings or structures thereon. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structures appurtenant to the property.

Property - shall mean any premise, personal or real property.

Public Nuisance - shall mean the allowance of, or the maintaining of, an unlawful condition, act, or use of any property or premise affecting the public's life, health, safety, or general welfare within the City limits; anything injurious to health so as to interfere with the comfortable enjoyment of life or property.

Public Place, Property, or Right-of-Way - shall mean any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, alleys, parkways, sidewalks, highways and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Real or Immovable Property - shall include land and whatever is erected or growing upon or affixed to land.

Real Property - shall mean any lot or parcel of land, including, but not limited to, an alley, sidewalk or unimproved public easement abutting said lot or parcel of land.

Refuse - shall mean all solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Structure - shall mean that which is built or constructed.

Undeveloped Property - shall mean any lot or parcel of land without a structure or building or without the installation of site improvements.

Weeds - shall mean any herbage or vegetation, but excludes cultivated shrubs, bushes, trees, flowers, and crops.

## **SECTION 2. DECLARATION OF PUBLIC NUISANCE**

A person shall not cause, permit, or allow a public nuisance under this ordinance on any lot or parcel of land, premise, or any public place within the City limits.

## **SECTION 3. SPECIFIC NUISANCES**

### **3.1 High Weeds, Grass, or Brush.**

It shall be unlawful for any owner, occupant, or person in control of any lot, parcel of land, or premise within the City limits to allow the accumulation of high weeds, grass, or brush to exist in excess of the standards provided herein. Such violation is considered a health and fire hazard and, as such, is hereby declared a public nuisance.

### 3.1.1 Height limitations.

1. Any accumulation of weeds, grass, or brush on any developed lot, parcel of land, or premise under three (3) acres of land that does not qualify as described in 3.11(3) below shall not exceed a height of more than fourteen (14) inches.
2. Any accumulation of weeds, grass, or brush on any undeveloped property of larger than three (3) acres shall not exceed a height of more than fourteen (14) inches within fifty (50) feet adjacent to and along any dedicated public street or right-of-way or adjacent to any lot that is occupied by a residence or business.
3. Exception: Property that has a significant vegetation other than weeds or grass, unusually steep slopes, or other terrain features which inhibit mowing or development, and which will not create problems if left in their natural state, may be left in their natural state.

### 3.1.2 Property adjoining public rights-of-way.

The owner, occupant, lessee, or person in control of private property adjoining any public right-of-way must maintain any private property adjoining a public right-of-way property within the City. Any growth of weeds and grass shall not exceed fourteen (14) inches in height, and all brush must be cleared from such right-of-way.

## 3.2 Dangerous Weeds over 48 Inches

3.2.1 The City may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to the life, health, or safety of any person. After such abatement, notice shall be given as follows:

1. Not later than the 10th day after the date the City abates weeds under this section, the City shall give notice to the property owner as described below:
  - a. The notice shall contain:
    - (i) an identification, which is not required to be a legal description, of the property;
    - (ii) a description of the violation(s) of the ordinance that occurred on the property;
    - (iii) a statement that the City abated the weeds; and
    - (iv) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.
  - b. The City shall conduct a hearing before the municipal court judge on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds,

the property owner files with the City Administrator's office a written request for a hearing.

- c. A hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.

3.2.2 The City may assess expenses and create liens under this section as it assesses expenses and creates liens under the Texas Health & Safety Code §342.008.

#### **SECTION 4. ACCUMULATION OF LITTER, TRASH, OR RUBBISH**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the City limits to allow the accumulation of any litter, trash, or rubbish. All litter shall be kept in an approved receptacle designed to contain litter in a manner so as not to allow it to be blown, carried, or deposited by the wind upon any private or public property or any right-of-way. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance.

#### **SECTION 5. LITTERING BY DEPOSITING OR DUMPING**

No person shall throw, deposit, drop, sweep, or place any litter or junk into or on any private or public property, right-of-way, street, sidewalk, or other place. All litter shall be disposed of in an approved receptacle designed to contain litter.

#### **SECTION 6. ALLOWING STAGNANT WATER TO ACCUMULATE**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the City limits to allow holes, containers, tires, or other various receptacles that contain stagnant water that may produce disease to exist on such lot, parcel of land, or premises. The City's authorized agent may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition.

#### **SECTION 7. ALLOWING UNSANITARY CONDITIONS**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the City limits to allow any unwholesome unsanitary condition that may produce disease to exist on such lot, parcel of land, or premise. The City's authorized agent may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition.

## **SECTION 8. CARE OF PREMISES**

8.1 It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the City limits to utilize such property for the open storage of any of the following:

Abandoned vehicles. Abandoned vehicles such as motor or non-motorized vehicles, boats, trailers, and similar items and parts thereof.

Abandoned appliances. Abandoned domestic or non-domestic appliances and parts thereof.

Supplies and materials. The open storage of building materials, building rubbish, tires, or any accumulation of any other product or supplies.

Note: It is not the intent of this section to prohibit the storage of building materials associated with a City-permitted construction project.

Vegetation. The open storage of dead trees, limbs, brush, or weeds.

8.2 It shall be the duty and responsibility of every such owner, lessee, occupant, or person in control of any lot, parcel of land, or premise to keep such property clean and to prevent a public nuisance.

## **SECTION 9. NOTICE, REMEDIES AND PENALTIES**

### **9.1 Notice of Violation**

Any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the City limits having on it any of the nuisances described in Sections 3 through 8 shall be required to remove, abate, or cure such nuisance within forty-five (45) days from the date of the written notice from the City Administrator or the City's authorized agent.

### **9.2 Notice to Property Owner**

9.2.1 In addition to section above, the City may remove, abate, or cure such nuisance after forty-five (45) days from the date of the notice of violation given to the property owner and charge all expenses incurred by the City, including administrative fees, to such owner as prescribed. Such notice shall be given to the property owner as follows:

1. personally to the owner in writing; or
2. by letter (certified mail) addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
3. if personal service cannot be obtained:
4. by publication at least once; or

5. by posting the notice on or near the front door of each building on the property to which the violation relates; or
6. by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

9.2.2 If the City mails a notice to a property owner in accordance with subsection 2 above, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

### 9.3 Repeat of Same Violation

The City Administrator or the City's authorized agent shall inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary (12 months) of the date of notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action permitted by this ordinance.

### 9.4 City Authorized to Abate

If the owner of any lot, parcel of land, premise, or any other property fails to comply with the notice given pursuant to this ordinance within forty-five (45) days of the date of such notice, the City may enter the property and remove, abate, or cure such nuisance.

### 9.5 Lien on Property

If the City abates a nuisance under Sections 3 through 8 of this ordinances, the owner of such property shall be notified by regular mail of the expenses thereof. If such charges are not paid within thirty (30) days of the date of such notice, the City Administrator or the City's authorized agent shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the property on which the nuisance was abated.

### 9.6 Remedies, Expenses, and Citations

Any person who violates this article shall be subject either to abatement restitution or criminal fine(s) or both, or any other relief provided by law.

9.6.1 Abatement restitution: Any property owner notified by the provisions of the above of a violation of this article and who fails to abate such nuisance within the time specified shall be required to pay to the City all expenses incurred to abate the nuisance, plus an administrative fee of one hundred dollars (\$100.00).

9.6.2 Criminal fine: The City may issue a citation or summons to any owner, lessee, occupant, or person in charge of property within the City limits who violates an ordinance in Sections 3 through 8 of this ordinance. An individual receiving a citation or summons who is convicted of violating any provision of this article shall be guilty of a Class C misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offense. Such remedy under this section is in addition to the abatement restitution.

## **SECTION 10. SANITARY AND HEALTH PROCEDURES ON ABUTTING PUBLIC RIGHTS-OF-WAY**

10.1 "Sidewalk," as used in this article, shall mean that portion of the street between the curb lines or lateral lines of the street or roadway and the adjacent property lines which is intended for the use of pedestrians.

### **10.2 Unlawful Accumulations and Conditions on Abutting Public Property**

10.2.1 It shall be unlawful for any owner, lessee, occupant or any person in charge of any premise to allow weeds to grow or permit trash or rubbish to accumulate upon sidewalks, city right-of-way, including alleys and easements, and/or state right-of-way in front of or abutting their property, and either act is hereby declared to constitute a public nuisance.

10.2.2 It shall be unlawful for any person to place at or near curbside, sidewalks, easements, alleys, or on their property or to allow to remain at curbside, sidewalks, alleys or easements any waste, including out of schedule waste, brush or construction and demolition materials in excess of any forty-eight-hour period, inclusive of weekends and holidays. It shall be an affirmative defense to prosecution that the responsible person placed the material, within the time period specified, and in response to official written notice from the city.

10.3 Maintenance of sidewalks, city right-of-way, and state right-of-way by owners, etc., of abutting premises required.

It shall be the responsibility of the owner, lessee, occupant or any person in charge of any premises within the city to maintain the sidewalks, alleys, easements, city right-of-way, and state right-of-way in front of or abutting their property in accordance with the provisions of this article.

### **10.4 Notice to Remove Unlawful Accumulations**

10.4.1 Whenever weeds are allowed to grow, or trash or rubbish allowed to accumulate unlawfully upon any property or sidewalks within the city, any city employee designated by the city administrator shall provide written notice that such nuisance exists and that the nuisance shall be removed or corrected.



10.4.2 The contents of the notice to clean up such unlawful accumulations shall contain:

- (1) An order requiring the owner, lessee, occupant or any person in charge of the premises or in charge of the property next to or abutting the sidewalk(s), to keep the same free from weeds, rubbish, brush, and any other objectionable, unsightly or unsanitary matter of whatever nature.
- (2) The location of the unlawful accumulations.
- (3) A description of whatever constitutes the unlawful accumulation.
- (4) A statement that if the property or sidewalk(s) is not cleared of or made free from the accumulations within thirty (30) days from the date the notice is mailed, the city may do such work or may cause the same to be done and may pay therefor and charge the expenses incurred in doing or having such work done or improvements made to the owner of the property abutting the public right-of-way as herein provided.

#### 10.5 Exception: construction sites

10.5.1 Construction debris is allowed to accumulate upon any property within the city for the duration of a lawfully issued construction permit.

10.5.2 It shall be unlawful to allow construction debris to accumulate upon a property within the city once the duration of a lawfully issued construction permit has expired.

10.5.3 Whenever construction debris is allowed to accumulate unlawfully upon any property within the city as prohibited by this article, any city employee designated by the city administrator shall provide written notice that such nuisance exists and shall be removed.

10.5.4 The contents of the notice to clean up such unlawful accumulations shall contain:

- (1) A notice to the general contractor, sub-contractors, and property owner requiring them to keep the same free from unsightly or unsanitary matter of whatever nature.
- (2) The location of the unlawful accumulations.
- (3) A description of whatever constitutes the unlawful accumulation.
- (4) A statement that if the construction site is not cleared of or made free from the accumulations within ten (10) days from the date the notice is provided, a citation for the committed violation(s) will be issued. In addition, the city may do such work or may cause the same to be done and may pay therefor any charge for the expenses incurred in doing or having such work done or improvements made which will be assessed against the general contractor performing the work on the property in violation.

#### 10.6 Correction or removal of conditions by City generally

In the event the owner of any lot or premises upon which a condition described in this article exists fails to correct, remedy or remove such condition within thirty (30) days or ten (10) days (depending on violation) after notice and order to do so is given in accord with this article, the city may do such work or make such improvements as are necessary to correct, remedy or remove such condition, or cause the same to be done, and pay therefor and charge the expenses incurred thereby to the owner of such lot or the lot

abutting the public right-of-way. Such expenses shall be assessed against the lot or real estate or the property abutting the public right-of-way upon which the work was done or the improvements made. The doing or causing of such work by the city shall not relieve such person from prosecution in municipal court for failure to comply with the notice and order

#### 10.7 Lien for and Collection of Expenses

After the notice statement provided for in accordance with this section is filed, the city shall have a privileged lien on the lot or real estate upon which the work was done or improvements made, to secure the expenses thereof. Such lien shall be second only to tax liens and liens for street improvements, and the amount thereof shall bear interest at the rate of ten (10) percent per annum from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city; and the statement of expenses made in accord with this section, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

#### 10.8 Prosecution not barred by collection of liens

The collection of a lien for the abatement of a nuisance for unlawful accumulations under the provisions of this article shall not bar prosecution of the owner or occupant of the premises upon which such nuisance existed or was maintained.

#### 10.9 Violations; penalty

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and subject to a fine not exceeding two hundred dollars (\$200.00). Each day the condition remains after the expiration of either thirty (30) days or the ten (10) (depending on violation) provided for as notice, shall be a separate offense. In case the owner or occupant of any lot or premises under the provisions of this section shall be a corporation or other entity, and shall violate any provision of this section, the president, vice-president, secretary, or treasurer of such corporation or other entity, or any manager, agent or employee of such corporation or other entity shall be also severely liable for any penalty.

### **SECTION 11. JUNK VEHICLES**

#### 11.1 Definitions

Antique Vehicle - shall mean a passenger car or truck that is at least thirty-five (35) years old.

Demolisher - shall mean a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junked Vehicle - shall mean a vehicle that is self-propelled and:

- A. does not have lawfully attached to it:
  - 1. an unexpired license plate; or
  - 2. a valid motor vehicle inspection certificate; or
- B. is wrecked, dismantled, or partially dismantled, or discarded; or
- C. is inoperable and has remained inoperable for more than:
  - 1. 72 consecutive hours, if the vehicle is on public property
  - 2. 30 consecutive days, if the vehicle is on private property.

Motor Vehicle Collector - shall mean a person who owns one or more antique or special interest vehicles and acquires, collects, or disposes of an antique or special interest vehicle or part of them for personal use to restore and preserve an antique or special interest vehicle for historic interest. Special interest vehicle shall mean hobbyists are preserving a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest.

## 11.2 Declaration of Public Nuisance

10.2.1 Junked vehicles and junked vehicle parts that are located in a place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tend to reduce the value of the private property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the City by producing urban blight adverse to the maintenance and continuing development of the City and are, therefore, declared to be public nuisances.

10.2.2 It is unlawful for any person or persons to cause or maintain such public nuisances by wrecking, dismantling, rendering inoperable, abandoning or discarding his or their vehicles, vehicles or vehicle parts on the property of another of [or] to suffer, permit or allow the same to be placed, located, maintained or exist upon his or their own real property. A junked vehicle, including a part of a junked vehicle that is visible from a public place, ordinary public view, or public right-of-way is hereby declared a public nuisance.

## 11.3 Exceptions

The following vehicles and vehicle parts are exempt from the provisions of this section:

11.3.1 A vehicle that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle and the outdoor storage area are:

- 1. Maintained in an orderly manner;

2. That do not constitute a health hazard; and
3. Are screened from ordinary public view by appropriate means, including a fence.

11.3.2 A vehicle that is covered with a cover that is custom-tailored or custom-fitted to the particular model of the vehicle being covered. The vehicle cover shall be made of a canvas of closely woven, coarse cloth of hemp, cotton or linen that is both water and mildew resistant and shall be maintained free of any tears or holes. To abate the nuisance, the vehicles shall be completely covered, with the exception of the vehicle tires, and the cover shall be secured by a tie-down device. Tires shall be mounted on the vehicle and shall be properly inflated. All four (4) tires must be on the ground. It is the vehicle owner's responsibility to ensure that the vehicle remains completely covered.

#### 11.4 Notice to Abate

11.4.1 The procedures for the abatement and removal of a public nuisance under this article shall provide not less than forty-five (45) days' notice of the nature of the violation and must be sent by certified mail with a five-day return requested to:

1. The last known registered owner of the nuisance;
2. Each lien holder of record of the nuisance; and
3. The owner or occupant of:
  - a. the property on which the nuisance is located; or
  - b. if the nuisance is located in a public right-of-way, the property adjacent to the right-of-way.

11.4.2 The notice must state:

1. The nuisance must be abated and removed not later than the forty-fifth (45th) day after the date on which the notice was mailed; and
2. Any request for a hearing must be made before the forty-five (45) day period expires.

11.4.3 If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

11.4.4 If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the forty-sixth (46th) day after the date of the return.

#### 11.5 Hearing

11.5.1 If a person for whom notice was sent requests an administrative hearing, or if a hearing is required by the City for abatement, such hearing shall be held before the municipal court judge as follows:

1. If a hearing is requested by a person for whom notice is required under this section, the hearing shall be held not earlier than the forty-sixth (46th) day after the date of the service of notice.

2. If the notice is delivered but the person for whom notice is required does not request a hearing, the City may conduct an abatement hearing not earlier than the forty-sixth (46th) day after the date of the notice.
3. If the notice is returned undelivered, then the hearing date shall be set not earlier than the forty-sixth (46th) day after the date of the return of the undelivered letter.

11.5.2 At the hearing the junked motor vehicle is presumed to be inoperable, unless demonstrated otherwise by the owner.

11.5.3 Any order requiring the removal of a vehicle or vehicle part must include the vehicle's description, identification number, and license number of the vehicle if the information is available at the location of the nuisance.

#### 11.6 Voluntary Abatement

If, within forty-five (45) days after receipt of notice to abate the nuisance as provided in this article, the owner of the vehicle shall give his written permission to the building official or his authorized representative for the removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

#### 11.7 Disposal of Junk Vehicles; remedies

10.7.1 A junked vehicle or vehicle part shall be disposed of by removal to a scrap yard, motor vehicle demolisher, or any suitable site.

10.7.2 Any individual who fails to timely abate a nuisance may be required to pay the City restitution for the City's cost in removing, abating, or curing such nuisance, plus an administrative fee of one hundred dollars (\$100.00).

10.7.3 Any vehicle or vehicle part, after removal by this article, shall not be reconstructed or made operable.

### **SECTION 12. REMOVAL AND IMPOUNDEMENT OF ABANDONED OR INOPERATIVE VEHICLES**

#### 12.1 Definitions

Abandoned vehicle- shall mean any vehicle or trailer which has remained continuously for a period of more than forty-eight (48) hours on any public street, alley or public way or continuously for a period of more than ninety six (96) hours on any other public street, sidewalk, alley or public way, or city-owned land, within the city; in a place or location

more than ten (10) feet from any real property occupied as the residence of the registered owner of such vehicle or trailer or other person having legal custody of same.

Inoperative vehicle- shall mean any motor vehicle or trailer which cannot be readily moved and operated due to structural damage or due to its being mechanically inoperative, and which has not been moved for a period of ten (10) days immediately preceding the date on which a notice is affixed thereto as hereinabove provided, and any motor vehicle, trailer or other item of movable personal property which does not bear license plates or vehicle inspection certificate required by Texas State law to be affixed to such vehicle, trailer or other property in order to permit for the lawful operation thereof upon the highways of said state.

- 12.2 Any inoperative or abandoned vehicle, as those terms are defined in this section, found standing or parked on any public street within the City, shall be removed by law enforcement, or by any person acting under instructions from any such member, to the nearest garage or other place of safety, or to a garage or parking lot designated or maintained by the Sheriff's department or otherwise maintained by the City, if such vehicle is not removed from such street by the registered owner or other person having legal custody thereof within twenty-four (24) hours after a written or printed notice has been attached to such vehicle by a member of said police department stating, in substance, that such vehicle will be moved by the City, and impounded in a place designated by such department, if it is not removed by the owner from the public street before the time specified in such notice, such time to be no less than twenty-four (24) hours after such notice is attached, and indicating the time at which such notice was attached.

### **SECTION 13. FEE SCHEDULE**

13.1 The City shall assess a to the owner a flat fee of \$0.10 per square foot for all work done or improvements made as is needed to bring any lot or parcel into compliance with this article and any applicable legal fees incurred by the City. The fee shall be calculated based on the entire square footage of the property as designated by the Kinney County Appraisal District based on the following progressive fee schedule:

13.2 An additional fifty-dollar (\$50.00) fee for tree trimming or removal shall also be assessed for each tree. The City shall cause the expense hereof to be assessed on the real estate, lot or lots upon which such expense is incurred.

13.3 A statement of the costs incurred by the City shall be mailed to the owner in a manner provided for in this article. The statement shall demand payment within thirty (30) days from the date of mailing. Said statement shall serve as notice of completed abatement under this section.

13.4 All abatement processes shall have an administrative fee of \$100.00 in addition to the costs incurred by the City.

## **SECTION 14. UNLAWFUL NONCOMPLIANCE; FINES**

14.1 It shall be unlawful for the owner of any land within the city to allow a public nuisance to exist within the city and to fail to abate the public nuisance as per the requirements of this article.

14.2 Upon conviction for violation hereof, the owner shall be fined an amount no less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) provided, however, in the event a defendant has once previously been convicted under this article, the defendant shall be fined an amount no less than two hundred dollars (\$200.00) and shall be fined no less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter. Each day a violation is permitted to exist after citation has been issued shall constitute a separate offense.

14.3 Prosecution for offenses under this section shall not affect the right of the city to abate the nuisance in a manner provided by this article, nor shall abatement by the city be a bar to prosecution for the offenses.

14.4 *Violation of section; liability of corporate officers, agent, etc.* In case the owner or occupant of any lot or premises under the provisions of this section shall be a corporation or other entity, and shall violate any provision of this section, the president, vice-president, secretary, or treasurer of such corporation or other entity, or any manager, agent or employee of such corporation or other entity shall be also severally liable for any penalty.

14.5 A person who violates this chapter shall be assessed a civil penalty of not less than ten dollars (\$10.00) or more than two hundred dollars (\$200.00) for each violation and for each day of a continuing violation; however, if it is shown on the trial of the defendant that the defendant has previously violated this chapter, the defendant shall be assessed a civil penalty of not less than ten dollars (\$10.00) or more than five hundred dollars (\$500.00) for each violation and for each day of a continuing violation. City council may authorize the city attorney's office to institute a civil suit in district court for: (a) injunctive relief to restrain the person from continuing the violation or threat of violation; (b) the assessment and recovery of a civil penalty; or (c) both injunctive relief and a civil penalty. If such a suit is filed, the department of state health services shall be added as a necessary party.

## **SECTION 15. SEVERABILITY**

If any terms or provisions of this Ordinance are found to be invalid for any reason, such partial invalidity shall not affect the remainder of this Ordinance.

## **SECTION 16. REPEAL**

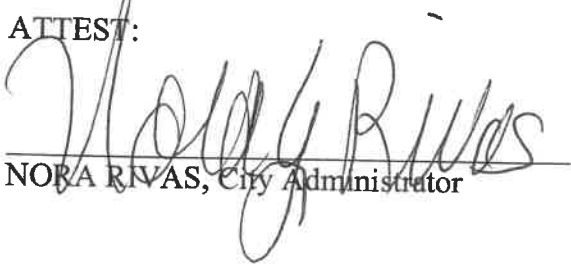
All ordinances or parts of Ordinances prescribing public nuisances, abatement and fees that in conflict with those herein set forth are repealed to the extent of such conflict. All other Sections of the previous Ordinance pertaining to City beautification which are not in conflict herewith shall remain in full force and effect.

## **SECTION 17. EFFECTIVE DATE**

This Ordinance shall be effective from and after its passage and approval upon second reading and any required publication as prescribed by Law.

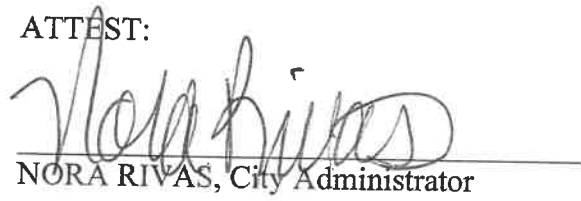
READ, PASSED, AND APPROVED ON FIRST READING, this 11th day of August, 2020.

  
\_\_\_\_\_  
ANDRES RODRIGUEZ, Mayor

ATTEST:  
  
\_\_\_\_\_  
NORA RIVAS, City Administrator

READ, PASSED, AND APPROVED ON SECOND READING, this 24<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
ANDRES RODRIGUEZ, Mayor

ATTEST:  
  
\_\_\_\_\_  
NORA RIVAS, City Administrator