

ORDINANCE NO. 193

AN ORDINANCE REPLACING AND AMENDING ORDINANCE NO. 2005-158, DULY PASSED BY THE CITY COUNCIL OF THE CITY OF WALLIS, TEXAS ON APRIL 20, 2005 OF THE CITY OF WALLIS, AUSTIN COUNTY, TEXAS, PROVIDING HEALTH, SANITATION AND NUISANCES CONTROL PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, the City Council of the City of Wallis has attempted to be continually aware of the problems and issues relating to the hazards and other circumstances which generally impact the health, safety and well-being of residents, citizens and inhabitants and further deteriorate the value of property; and

WHEREAS, nuisances are detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City of Wallis, Texas; and

WHEREAS, this Ordinance is adopted as replaced and amended for the protection of the public health, safety and welfare of the residents of the City of Wallis;

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

Section 1. That the City Council of the City of Wallis adopts the preceding preamble paragraphs as if repeated verbatim herein and find them as matters of fact.

Section 2. The City of Wallis shall institute and amend health, sanitation and nuisances control by establishing the following:

HEALTH, SANITATION AND NUISANCES CONTROL

ARTICLE I. IN GENERAL

Sec. 1. Applicability.

The definitions and prohibitions of any nuisance shall apply within the corporate limits of the City of Wallis unless extension into its ETJ is otherwise authorized by law.

Sec. 2. Complaints by individuals.

All complaints concerning the violation of any health or sanitary regulations shall be

made to the city through the Director of Public Works or designee. The Director of Public Works or designee shall make an inspection of the matters complained of and if such matters complained of are found in violation of any state or city health or sanitary laws, rules or regulations, the city shall immediately give the notice if required and as provided for in this Ordinance and shall proceed to have the matters complained of corrected.

ARTICLE II. NUISANCE ABATEMENT

Sec.1. Definitions.

The following words and terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Brush means ~~scrub vegetation; and covered with scrub vegetation; or a dense growth and undergrowth~~ all trees, shrubbery, or vegetation, including any trees, shrubbery, or vegetation that are dead, dying, diseased, have fallen, or have branches or limbs snapped or broken, which have not been properly cultivated, maintained, cared for, removed or disposed of by persons owning or controlling the premises on which such trees, shrubbery, or vegetation are growing or are located, or are in the right-of-way or immediately adjacent to such premises.

Brushwood means the wood of small branches when cut or broken; or a thicket composed of shrubs and small trees.

Building shall mean the structure, whether public or private, that is adapted for occupancy or transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares, or merchandise, or for the performance of work or labor, including hotels, apartment buildings, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, warehouses, workshops, factories, sheds, barns and other structures on premises used for business purposes,

Bushy means covered, thick with brush, vegetation, shrubbery, or brushwood.

Carrion means the dead and putrefying flesh of any animal, fowl or fish.

Impure or unwholesome matter means a putrescible or nonputrescible condition, object or matter which tends, may or could produce injury, death or disease to human beings.

Junk means old iron, glass, paper, cordage, or other waste that may be treated so as to be used again in some form; secondhand, worn or discarded articles of any kind having little or no commercial value; something without intrinsic value; to abandon or to get rid of as no longer of value or use.

Neighborhood shall mean a platted subdivision property contiguous to and within 300 feet of a platted subdivision.

Objectionable, unsightly or unsanitary vegetation or matter means any matter, condition, or object which is or should be objectionable unsightly, or unsanitary to a person of ordinary sensitivities.

Occupant shall mean the individual, partnership, corporation, or business entity that uses or occupies any building or part or fraction thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portions thereof, the owner, agent or custodian shall have the responsibility as occupant.

Owner shall mean the actual owner, agent or custodian of the property or building, whether individual, partnership, corporation, trust, or any other organized entity.

Platted subdivision means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

Premises means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

Refuse means trash, debris, rubble, stone or other material left over in buildings or broken from ruined buildings.

Trash means something worth relatively little or no value; junk; rubbish; something in a crumbled or broken condition en masse; and woody or vegetable matter fallen or strewn on the ground.

Waste product means debris resulting from a process (as a manufacturer) that is of no further use of the system producing it.

Weed means an introduced plant growing in the ground that is or has been in cultivation usually to the detriment of the crop or to the disfigurement of the place; an economically useless plant; a plant of unsightly appearance; one of wild or rank growth; a tree or shrub of low economic value that tends to grow freely and by its presence to exclude or retard more valuable plants; wild growth usually in the nature of rank grass or undergrowth.

Sec. 2. Prohibited accumulations; nuisance; litter; weeds; **junk vehicles;**
duty of property owner; occupant.

Each of the following, without limiting the definitions for the Health, Sanitation, and Nuisances Control section, is specifically declared to be a public nuisance, and as such is liable to be abated; and the person guilty of causing, permitting or suffering any such nuisance then upon his/her premises, in any building, occupied or controlled by him/her, or in or upon any street, alley, sidewalk, gutter, or right-of-way immediately adjacent to such premises shall be deemed in violation of the Health, Sanitation, and Nuisances Control section.

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city to permit or allow any filth, carrion, rubbish, junk, trash, waste products, brush and refuse, **accumulation of stagnant water or holes or places where water may accumulate or become stagnant, weeds which have grown to a height as described below,** impure or unwholesome matter of any kind, or objectionable, unsightly or unsanitary matter of whatever nature to accumulate or remain thereon. Such accumulations and conditions are hereby declared a public nuisance, the prompt abatement of which is a public necessity.

(b) It shall be unlawful for any person to throw, deposit or sweep any of the matter prohibited in subsection (a) of this section into, upon or along any drain, gutter, alley, sidewalk, street, parkway, right-of-way, or vacant lot, or upon any public or private premises within the corporate limits of the city.

(c) It shall be unlawful for any person to permit, keep, store, or accumulate refuse, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood for ten days or more, unless the refuse or object is completely enclosed in a building, is not visible from a public street and does not otherwise constitute a health hazard.

(d) The elements of the various offenses and definitions relating thereto that are set forth in the Texas Health and Safety Code, Texas Transportation Code, and any other state statutes, articles or codes relating to nuisances, including amendments thereto, are adopted as a part of this Ordinance by reference. Violations of any of the aforesaid provisions that are adopted by reference shall also constitute city ordinance violations as provided by this Ordinance.

Sec. 3. Premises harmful to health.

It shall be unlawful for any person to cause, suffer, allow, permit, or maintain a premise in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.

Sec. 4. Limitation of height of grass and weeds.

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city to permit weeds, grass, brush or any objectionable or unsightly vegetation to grow to a greater height than twelve (12) inches in a neighborhood or premises of one (1) acre or less and eighteen (18) inches for all other premises. It shall be the duty of such person to keep the area from the line of his property to the back of the curb line next adjacent to it, if there is a curbline and if not then to the centerline of the adjacent unpaved street, or to the edge of the pavement of a paved but uncurbed street, free and clear of the matter referred to above. *All* vegetation not regularly cultivated and — which exceeds the referenced height shall be

presumed to be objectionable and shall be kept mowed the same as provided in this section.

(b) It shall be the duty of any person owning, claiming, occupying, or having supervision or control of any real property referred to in this section to cut and remove all weeds, brush, and other objectionable or unsightly vegetation as often as may be necessary to comply with this section, and to use every precaution to prevent the same from occurring or growing on such premises.

(c) Exemptions:

(1) Heavily wooded acreage preventing the operation of mowing machines.

(2) Farming or pasture acreage classified on the tax rolls of the central appraisal district as "agricultural exempt." Notwithstanding, said acreage shall maintain a clearance of fifteen (15) feet from any occupied building, public street, school, athletic field, arena, park or playground.

(3) *Exemptions, as defined in subsection (1) of this subsection may be denied or suspended, if in the opinion of the Director of Public Works, conditions exist that may be detrimental to health, safety or welfare of the community.*

Sec. 5. Inspection.

The Director of Public Works, or his designated representatives, shall have the authority to inspect any property within the city limits of the city, at any reasonable time in order to make a thorough examination thereof for the purpose of determining whether or not any of such unsanitary conditions mentioned herein exist, subject, however, to the restrictions against such inspection and entry of private residence or private property for said inspection as provided by laws of the State of Texas. The Director of Public Works, or his designee, is designated as the Code Enforcement Official for the purpose of being issued a search warrant, as maybe required, pursuant to Section 18.05 of the Texas Code of Criminal Procedure.

Sec. 6. Notice to abate, service.

(a) *Generally.* If the owner of any real property fails or refuses to comply with this article, *and the Director of Public Works or his designee, receives information of the existence* of any property in violation of this article, he, shall serve the owner of the property with a written notice informing the owner of such condition and directing that action be taken to bring the property into compliance within seven (7) days.

(b) *Service of notice on owner or occupant.* The notice authorized by this section shall be given personally to the owner in writing or by letter mailed "Certified Mail Return Receipt Requested" or equivalent 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. If personal service cannot be obtained and the owner is not an Individual, then the notice shall be served upon the persons designated under applicable law for service of process on a non-individual or non-resident.

(c) Service of notice by publication; contents. If personal service of the notice cannot be obtained, service may be given by publication, at least once, in a newspaper of general circulation in the City, addressed to the owner or if the owner is not known, "To the owner of (legal description of the property involved)." The notice shall give the legal description of the property, state the condition which constitutes a violation of this section, and shall state that upon failure of the owner to rectify the situation within seven (7) days of the date the notice is mailed, published or posted, a complaint may be filed in the municipal court of the city for violation of this article, stating the penalties for violation. In addition, the notice shall advise that the city may do the work or make the improvements required or pay for the work done or improvements made and charge the owner for the expense involved, and upon failure of the owner to pay the city for such expense, fix a lien on the property for the expense involved as provided in this article.

(d) Notice by posting; contents. In addition to publication in a local newspaper, notice may be served by posting said notice on or near the front door of each building on the property to which the violation relates; or 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. Any notice posted on the property shall be on a placard and shall have the same contents as provided in (c) above.

(e) Notice returned as "refused" or "unclaimed." In the event a notice is mailed to a property owner in accordance with this article 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.

(f) Additional notice, not required. In a notice provided under this section, the city may 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 one year anniversary of the date of the 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 section 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 in this article and assess expenses against the property.

Sec. 7. Unlawful noncompliance; filing of complaint; fines.

It shall be unlawful for the owner or tenant of any land within the city to fail to have any weeds, grass, brush or rubbish mowed, cut, removed, or otherwise fail to bring property into compliance with the standards set fourth in this article within seven (7) days after notice is mailed or published, directing that such standards be met; the Director of Public Works or his designee assigned such duties shall, whenever a violation is found, file a complaint with the municipal court; and the prosecutor of the municipal court assigned

such duties shall prosecute the case, and upon conviction for violation of this article the owner, or any person, corporation, or entity who or which intentionally, knowingly, recklessly, negligently, or with criminal negligence, commits a violation of this ordinance shall be fined in an amount not to exceed the maximum penalty accorded by law. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate violation.

Sec. 8. Abatement by city; payment of costs by owner; lien imposed for nonpayment.

(a) In addition to the remedy provided for in Section 7, the city may also cause the work necessary to bring any property into compliance with this article to be done if the owner fails either to do such work or cause the work to be done within seven (7) days from receipt of notice or publication, and to charge the owner for the costs incurred by the city. A statement of the costs incurred by the city to abate such condition shall be mailed to the owner of such premises, if the owner and mailing address is known, and if not known, may be published in the official newspaper designated by the city for notice or other local newspaper having at least weekly issues. The statement shall demand payment within thirty (30) days from the date of receipt or publication.

(b) In addition to all costs for equipment, manpower and other related expenses, a minimum fee of one hundred (\$100.00) for each lot, adjacent lots under common ownership, or tract of land is hereby established for all associated administrative functions as may be required.

(c) If the statement of the costs served or published pursuant to this section is not paid within such period, the Director of Public Works may file with the county clerk a statement of the expenses incurred to abate and correct such condition on the premises, to be filed in the deed records, and such statement shall be and the city shall have a privileged lien upon the lot, parcel, or tract of land upon which such expenses were incurred, second only to tax liens and liens for streets improvements, together with ten (10) percent interest per annum on the delinquent amount from the date such payment was due in compliance with law. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the city; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work.

ARTICLE III. RODENT CONTROL

Sec. 1. Harborage and infestation prevention.

(a) All buildings and related structures shall be maintained free from insect and rodent harborage and infestation.

(b) The grounds, premises, and area where a building is situated shall be maintained free of all accumulations of debris which may provide rodent harborage or breeding places for

flies, mosquitoes and other pests.

(c) Storage areas shall be so maintained as to prevent rodent harborage.

(d) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Open areas shall be maintained free of heavy undergrowth of any description as provided herein.

Sec. 2. Garbage and refuse containers.

Within the city limits all garbage or refuse consisting of waste animal or vegetable matter and all small dead animals upon which vermin may feed shall be placed and stored until collected in covered containers constructed of galvanized iron, tin, plastic, rubber or other suitable material, including plastic garbage bags. It is further declared unlawful for any person to dump or place on any premises, land or waterway any dead animals or any waste vegetable or animal matter of any kind.

Sec. 3. Dumping on lots and alleys.

It shall be unlawful for any person to place, leave, dump, or permit to accumulate any garbage, rubbish or trash in any building or on any premises, improved or vacant, or on any open lot or alley in the city so that same shall or may afford food or harborage for rodents.

Sec. 4. Penalties.

Whenever a violation of the provisions in this Article III is found, the Director of Public Works or his designee assigned such duties shall file a complaint with the municipal court; and the prosecutor of the municipal court assigned such duties shall prosecute the case, and upon conviction for violation of this article the owner shall be fined in an amount not to exceed the maximum penalty accorded by law. Additionally, the City reserves all other remedies accorded by law. Notice is to be given as provided herein and as provided by law.

Section 3. It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

Section 4. Any and all ordinances, resolutions, and/or policies of the City of Wallis, Texas, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

Section 5. The City Council finds, determines and declares that a sufficient written notice was posted and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish the Caption of this Ordinance in

the Official Newspaper of the City of Wallis in the manner provided and for the time required by Section 52.019 (a) of the Local Government Code at which time this Ordinance takes effect.

PASSED AND APPROVED by the City Council of the City of Wallis, Austin County, Texas on this, the 18th day of July, 2012.

Jerry DeLo, MAYOR

ATTEST:

D.J. Sommers
D.J. Sommers **CITY SECRETARY**