

ORDINANCE NO. 136

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COAHOMA, TEXAS, REGULATING WEEDS, REFUSE, ACCUMULATED ITEMS AND OTHER UNSIGHTLY AND UNSANITARY MATTER ON PROPERTY WITHIN THE CITY, PROVIDING PROCEDURES FOR NOTICE AND ABATEMENT OF SUCH CONDITIONS, PROVIDING FOR THE ASSESSMENT OF THE COSTS OF SUCH ABATEMENT AGAINST THE PROPERTY, AUTHORIZING THE FILING OF A LIEN ON THE PROPERTY FOR COSTS INCURRED; PROVIDING FOR EMERGENCY ABATEMENT OF DANGEROUS WEEDS, PROVIDING FOR CUMULATIVE REMEDIES, PROVIDING FOR A CRIMINAL PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS FOR EACH VIOLATION, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith, PROVIDING FOR SEVERABILITY, PROVIDING FOR PUBLICATION, PROVIDING AN EFFECTIVE DATE AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW

**WHEREAS,** the City Council (Council) of the City of Coahoma (City) seeks to promote the health, safety and general welfare of the inhabitants of the City;

**WHEREAS,** pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS,** pursuant to Section 342.004 of the Texas Health and Safety Code, the City may require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush and other objectionable, unsightly, or unsanitary matter; and

**WHEREAS,** there exists unsightly, objectionable and unsanitary conditions within the city limits of the City of Coahoma; and

**WHEREAS,** the existence of such conditions constitutes a hazard to the public health, safety and general welfare; and

**WHEREAS,** the Council is of the opinion that it is necessary for the good government, peace and order of the City to adopt this ordinance updating the City's ordinance No. 46 concerning sanitation of real property.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Coahoma, Texas:

## ARTICLE 1: DEFINITIONS

**Sec. 1.01 Defined Terms.** For purposes of this article, the following terms shall have the following designated meanings:

*Brush* shall mean scrub vegetation or dense undergrowth.

*Carrion* shall mean the dead and putrefying flesh of any animal, fowl or fish.

*Clippings* shall mean grass clippings, leaves or tree clippings which are not fixtures of the property and which a reasonable person would conclude have been discarded or are meant to be discarded.

*Designated waste receptacle* shall mean a collection container or area, such as a garbage can or dumpster for ultimate disposal at a permitted or licensed municipal solid waste site.

*Filth* shall mean any matter in a putrescent state.

*Garbage* shall mean all decayable wastes.

*Junk* shall mean all worn out, worthless, or discarded material, including, but not limited to, odds and ends, old iron or other metal, glass, and cordage.

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

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

*Owner* shall mean a person having title to real property.

*Person* shall mean any individual, firm, partnership, association, business, corporation, or other entity.

*Putrescible waste* shall mean waste liable to become putrid (decomposed or rotten), usually applied to food and animal products.

*Refuse* shall mean a heterogeneous accumulation of worn out, used up, broken, rejected or worthless materials and includes garbage, rubbish, paper or litter and other decayable or nondecayable waste.

*Rubbish* shall mean trash, debris, rubble, paper, wood, plastic, stone, useless fragments of building materials, or other miscellaneous useless waste or rejected matter.

*Stagnant* shall mean foul or stale from standing.

*Weeds* shall mean vegetation, including grass, that because of its height is objectionable, unsightly or unsanitary, but excluding:

- (1) Shrubs, bushes, and trees,
- (2) Cultivated flowers, and
- (3) Cultivated crops.

**Sec. 1.02 Construction.** Any word not defined herein shall be construed in the context used and by ordinary interpretation; not as a word of art.

## ARTICLE 2: PROHIBITIONS

**Sec. 2.01 Refuse, rubbish and other unsightly and unsanitary matter.** It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the city limits to permit or allow any filth, carrion, weeds, rubbish, brush, refuse, junk, or garbage, or impure or unwholesome matter of any kind, or objectionable, unsightly or unsanitary matter of whatever nature to accumulate or remain on such real property, including upon any easement area on such real property or upon any adjacent right-of-way for streets and alleys between the property line of such real property.

**Sec. 2.02 Stagnant water.** It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the city limits to allow water to accumulate or remain on such lot or premises so as to become stagnant.

**Sec. 2.03 Unsanitary condition – insects and vermin.** It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city limits to permit or allow such premises to be maintained in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests

**Sec. 2.04 Unlawful disposal.** It shall be unlawful for any person to dispose of or allow to be disposed of upon any property within the city limits, any rubbish or other waste material, except within designated waste receptacles.

**Sec. 2.05. Weeds.**

**(a) General requirement.** It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the city limits to permit or allow weeds to grow on the premises to a greater height than twelve (12) inches.

**(b) Agricultural properties.** With respect to uncultivated agricultural properties, a person, owner, tenant, agent, or person responsible for such property commits an offense if said person permits or allows weeds to grow to a greater height than twelve (12) inches within one hundred fifty (150) feet from any adjacent property under different ownership or any street right-of-way. However, on

cultivated agricultural properties where the distance between the growing crop and abutting property under different ownership or street right-of-way is less than one hundred fifty (150) feet, the person, owner, tenant, agent, or person responsible for such property commits an offense if said person permits or allows weeds to grow to a greater height than twelve (12) inches between such growing crop and such property or street right-of-way. A person commits an offense if the person permits or allows weeds or crops on a corner lot to grow to any height which would create a traffic hazard.

### **ARTICLE 3: CITY ABATEMENT OF CONDITION**

In the event that a property is found to be in violation of the provisions of this Ordinance, the city may take necessary action to abate the nuisance in accordance with the following the requirements.

**Sec. 3.01. Notice of Violation.** When a property is in violation of the provisions of this Ordinance, the City Secretary, shall give notice to the owner of the property according to the county appraisal district records, setting forth the noncompliance with this section and stating that the owner must correct, remedy or remove such condition within ten (10) days after the date of the notice, and that it shall be unlawful to fail to comply with such notice.

**Sec. 3.02 Manner of Notice.** Such notice shall be given in any one of the following ways:

- (a) Personally to the owner of the property in writing;
- (b) By letter 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
- (c) If personal service cannot be obtained:
  - By publication at least once;
  - By posting the 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.
- (d) If the notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

**Sec. 3.03 Annual notice.** In a notice provided under this section, the city may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, 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 of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expenses 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 section 3.04 and assess its expenses as provided in section 3.05.

**Sec. 3.04. Work or improvements by city.** If the property owner fails or refuses to comply with the demand for compliance set forth in the notice within seven (7) days of such notice or publication, the city may do such work or cause such work to be done to bring the real property into compliance with this section.

**Sec. 3.05. Assessment of expenses; lien.**

**(a) Assessment of expenses.** The costs, charges, and expenses incurred in doing or having such work done, or improvements made to the real property, including, but not limited to the sum of two hundred and fifty dollars (\$250.00) per lot or tract of land, which sum is hereby found to be the cost to the city of administering the terms of this section, shall be a charge to and personal liability of the owner of the property.

**(b) Lien.** If a notice as provided herein is delivered to the owner of such real property, and he or she fails or refuses to comply with the demand for compliance within the applicable time period as herein provided, the aforementioned costs, charges, and expenses shall be, in addition to a charge to and personal liability of the owner, a privileged lien upon and against such real property, including all fixtures and improvements thereon. In order to perfect such lien, the City Secretary or her designee, shall first give such owner written notice of demand for payment of such charges. Such written notice may be given by any one (1) of the methods provided for the initial notice requiring compliance. If the owner fails or refuses to make complete payment of the charges within twenty (20) days of such notice, the City Secretary or her designee, shall file a written statement of such charges with the County Clerk, for filing in the county land records.

The statement shall be sufficient if it contains the following:

- (1) The name of the owner;
- (2) A description of the real property;
- (3) The amount of the charges, including interest thereon;
- (4) A statement that all prerequisites required by this section for the imposition of the charges and the affixing of the lien have been met; and
- (5) A statement signed by the City Secretary or her designee, under oath, that the statements made therein are true and correct.
- (6) The statement may also contain such other information deemed appropriate by the director, or his designee.

**(c) Interest.** All charges shall bear interest at the rate of ten (10) percent per annum from the date the city incurs the expense. The city may bring suit to collect the charges, institute foreclosure

proceedings, or both. The statement, as provided herein or certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien. The owner or any other person responsible as provided herein shall be jointly and severally liable for the charges.

#### **Sec. 3.06 Additional Authority – Abatement of Dangerous weeds.**

(a) **Abatement.** In the event that a property owner permits or allows weeds to grow on the premises to a height greater than forty-eight (48) inches and such weeds are deemed by the City Secretary, or his or her designee, to be an immediate danger to the health, life, or safety of any person, the City Secretary or designee, without notice to the property owner, may do such work or cause such work to be done to bring the real property into compliance with this section. The costs, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be assessed to the property owner in the same manner set forth in Section 3.05. Not later than the tenth day after the date upon which the weeds were abated under this section, notice shall be given to the property owner of the abatement. Such notice shall be sufficient if it contains the following:

- (1) An identification of the property, which is not required to be a legal description;
- (2) A description of the violations that occurred on the property;
- (3) A statement that the city abated the weeds;
- (4) The amount of the charges, including interest thereon; and
- (5) An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

(b) **Appeal.** If, not later than the thirtieth day after the date of the abatement of the dangerous weeds, the property owner files a written request for a hearing with the City Secretary, the City Secretary shall forward the request and all documents related to the matter to the Mayor, who shall conduct or designate a person to conduct in his behalf, an administrative hearing on the abatement of dangerous weeds under this section 3.06 and/or the assessment of the administrative charge. The administrative hearing shall be conducted not later than the twentieth day after the date the request for a hearing is filed. The property owner may testify or present any witnesses or written information relating to the city's abatement of the weeds. Within ten (10) working days of the date of the hearing, the Mayor, or his designee, shall provide written notice of his decision. The Mayor, or his designee, may after hearing, waive the assessment of charges in the event he determines that the requirements for abatement of dangerous weeds were not met and may uphold, alter or waive the assessment of administrative charges upon a finding of good cause for so doing. The decision of the Mayor, or his designee, is final.

### **ARTICLE 4: CRIMINAL PENALTIES**

#### **Sec. 4.01 Cumulative Remedies.**

Notwithstanding any provisions of this ordinance providing for alternative remedies, the City Secretary or her designee or any person duly authorized by the City Council to make investigations under this ordinance shall have authority to file immediate criminal complaints in a court of competent jurisdiction against persons alleged to be in violation of any provision of this ordinance



in the presence of said investigator. It shall be unlawful for any person to interfere with authorized personnel in the exercise of their duties under this ordinance.

**Sec. 4.02 Penalty.** Any person who shall violate the provisions of this ordinance or fail to comply therewith, or who permits the violation of any provision of this ordinance, shall upon conviction be guilty of a misdemeanor and subject to a fine not to exceed two thousand dollars (\$2,000.00). Each day that a violation of this Ordinance exists shall constitute a separate offense.

#### ARTICLE 5: MISCELLANEOUS

**Sec. 5.01 Repeal.** All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance, including, but not limited to Ordinance Number 46, are hereby repealed, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

**Sec. 5.02 Severability.** If any paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

**Sec. 5.03 Publication.** The City Secretary is hereby directed to publish a caption of this Ordinance that summarizes its purpose and penalty, as provided in Section 52.013 of the Texas Local Government Code.

**Sec. 5.04 Effective Date.** This Ordinance shall be effective upon its passage and publication as required by law.

**Sec. 5.05 Proper Notice and Meeting.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Coahoma, Texas on this the 19<sup>th</sup> day of July, 2018.

By: \_\_\_\_\_

Warren Wallace, Mayor

**ATTEST:**

Tammy Griffith, City Secretary