

**COPY**

**WEEDY LOT ORDINANCE  
NO. 08-08-11**

**AN ORDINANCE TO PROTECT THE PUBLIC HEALTH AND PROMOTE THE PUBLIC WELFARE OF THE CITY OF LYFORD, TEXAS, BY PROHIBITING NUISANCES ON PROPERTY AND IMPOSING A DUTY OF MAINTAINING PROPERTY FREE OF NUISANCES; PROVIDING FOR NOTICE TO BE GIVEN TO OWNERS IN CASE OF FAILURE OF OWNER TO REMOVE NUISANCES, THAT THE SAME MAY BE REMOVED AT THE EXPENSE OF THE CITY OF LYFORD; PROVIDING FOR THE FIXING OF A LIEN AGAINST SUCH PROPERTY FOR SUCH REMOVAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, it is deemed by the City Commissioners of the City of Lyford, Texas, that it is dangerous to human health and welfare to allow nuisances to exist on property in the City of Lyford, Texas;**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSIONERS OF THE CITY OF LYFORD, TEXAS, AS FOLLOWS:**

**SECTION 1. Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air or food a hazard or an injury is hereby declared to be a nuisance.**

**SECTION 2. The following specific acts, conditions, and things are declared to constitute a public nuisance and are hereby prohibited and made unlawful:**

- (A) The deposit or accumulation of any foul, decaying or putrescent substance or other offensive matter in or upon any lot, street, or in or upon any public or private place in such a way as to become offensive or objectionable; the overflow of any foul liquids, or the escape of any gases, fumes, mists and sprays to such an extent that the same, or any one of them, shall become, or be likely to become, hazardous to health or a source of discomfort to persons living or passing in the vicinity, or that the same shall, by reason of offensive odors, become a source of discomfort to persons living or passing in the vicinity thereof.**
  
- (B) The accumulation of manure, unless it is in a properly constructed pit or receptacle.**

(C) **Whenever weeds, brush, rubbish and all other objectionable, unsightly and unsanitary matter of whatever nature shall exist, covering or partly covering the surface of any lots or parcels of real estate situated within the city or when any of such lots or parcels of real estate, as aforesaid, shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to be liable to cause disease or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome, or obnoxious, the same shall constitute and is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Such lots or parcels of real estate in addition to those grounds within their respective boundaries, shall be held to include all lots or parcels of ground lying and being adjacent to and extending beyond the property line of any such lots or parcels of real estate to the curb line of adjacent streets, where a curb line has been established, and fourteen (14) feet beyond the property line where no curb line has been established on adjacent streets, and also to the center of adjacent alleys.**

**The word “weeds” as herein used shall include all rank and uncultivated vegetable growth or matter which has grown to more than nine (9) inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass or a breeding place for mosquitoes or vermin.**

**The word “brush” as herein used shall include all trees or shrubbery under seven (7) feet in height which are not cultivated or cared for by persons owning or controlling the premises.**

**The word “rubbish” shall include all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts, and in general all litter and all other thing usually included within the meaning of such term.**

The words "any and all other objectionable, unsightly or unsanitary matter of whatever nature" shall include all uncultivated vegetable growth, objects and matters not included within the meaning of the other terms as herein used, which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the premises within the general locality where the same are situated, and shall also include any species of ragweed or other vegetable growth which might or may tend to be unhealthy to individuals residing within the general locality of where the same are situated.

**SECTION 3.** It shall be unlawful for any owner, lessee, or occupant, or any agent, representative or employee of any owner, lessee or occupant or any other person having ownership, occupancy or control of any land, or improvements thereon, to permit, allow or suffer any condition to exist on such property if such condition is prohibited or made unlawful under the provisions of this section.

**SECTION 4.** Whenever the existence of any nuisance defined in this chapter, on any lots or parcels of real estate situated within the city, shall come to the knowledge of the Mayor, it shall be his duty to forthwith cause a written notice identifying such property to be issued to the person owning the same. Such notice shall be addressed to such person at his post office address or by publication as many as two (2) times within ten (10) consecutive days, if personal service may not be had or if the owner's address is not known, requiring the abatement of such nuisance by grubbing and removing such weeds, brush, rubbish or other objectionable, unsightly or unsanitary matter of whatever nature, as the case may be, or by filling in, draining, leveling or otherwise regulating such lots or parcels of real estate so as to prevent stagnant water standing therein, within ten (10) days from the service of such notice. Such notice shall further state that, in default of the performance of the above condition, the city may, at once, cause the same to be done and pay therefore, and charge the cost and expense incurred in doing or having such work done, or improvements made, to the owner of such property, and fix a lien thereof as provided in this article.

**SECTION 5.** In the event of the failure, refusal or neglect of the owner or occupant of any premises or property to cause such nuisance to be removed or abated in the manner and within the time provided in this Code, the Mayor shall cause the weeds, brush, rubbish or other unsanitary matter or condition constituting a nuisance, to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the City. The Mayor shall carefully compile the cost of such work done and improvements made in abating such nuisance, and shall charge the same against the owner of the premises.

**SECTION 6.** The City Commission hereby finds and declares that the general overhead of administrative expense of inspection, locating owner, issuing notice, reinspection and ordering work done, together with all necessary incidents of same, shall be tabulated and charged at the discretion of the Public Works Supervisor. A reasonable charge, but not less than fifty dollars (\$50.00), for each lot, series of two (2) or more adjacent and contiguous lots, or tract or parcel of acreage, will be established and declared to be an expense of such work and improvement. Notwithstanding, therefore, any tabulation of recorded cost, but not less than fifty dollars (\$50.00), shall be assessed against each lot so improved under the terms of this section, but such sum of fifty dollars (\$50.00) is hereby expressly stated to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed the minimum charge.

**SECTION 7.** After receiving from the public works supervisor, a compilation of the cost of the work, and after charging the same against the owner of the premises, the Mayor shall certify a statement of such expense and shall file the same with the County Clerk of Willacy County, Texas. Upon filing such statement with the County Clerk, the City shall have a privileged lien on such lot or lots or real estate upon which said work was done or improvements made to secure the expenditures so made, which said lien shall be second only to tax liens and liens for street improvements, and said amount shall bear TEN (10%) per cent interest from the date said statement was filed.

**SECTION 8.** For any such expenditures, and interest, as aforesaid, suit may be instituted by the City and recovery and foreclosure had in the name of the municipal corporation of the City; the statement so made, as aforesaid, or a certified copy thereof, shall be the prima facie proof of the amount expended in any such work or improvements. Upon payment of the full charges assessed against any property, pursuant to the procedure set forth, the Mayor shall be authorized to execute, for and in behalf of the City, a written release of the lien heretofore mentioned, such written release to be on a form prepared and approved in each case by the City Attorney.

**SECTION 9.** The City shall have the right to award any quantity of work authorized under this Code to a general contractor whose bid shall be accepted by the City Commissioners as the lowest and best secured bid for doing of the work herein mentioned during a stipulated time not to exceed one year.

**SECTION 10.** Any owners of vacant property in the City shall have the right to contract with the City to remove all such weeds and vegetation as may grow on such real estate by requesting in writing the Public Works Supervisor so to do, and by agreeing to the charge to be paid therefore, but not less than fifty dollars (\$50.00) to be paid therefore per lot, series of two or more adjacent and contiguous lots, or tract or parcel of acreage, to be charges against such property for each removal of weeds and vegetation.

**SECTION 11.** In addition to the remedies prescribed by this article, and cumulative thereof, if it shall be brought to the attention of the City Commission, and shall by commission be determined that any nuisances, are likely to have an immediate adverse effect upon the public health, comfort or safety, then and in that event the City Commissioners may, by appropriate resolution or motion, order such nuisances summarily abated by the City in a reasonably prudent manner.

**SECTION 12.** All notices to cut weeds or abate any nuisance under this article, and all statements evidencing costs to the City of cutting weeds or abatement of nuisances, upon failure, refusal or neglect of the owner to cut weeds or abate the nuisance after having been notified to do so, as well as all other clerical work incident to enforcement of the provisions of this article, shall be prepared and mailed by the Mayor or city employees under his direction.

**SECTION 13.** All payments of money by and collections of money, if any, from property owners for the purpose of paying the City for expense in abating nuisances as provided for in this article shall be handled by the City Secretary or city employees. Any such payment or collection so made shall be received by and receipted for by the City Secretary or city clerk. Such sums of money so received by the city employee shall be turned over to the Tax Assessor-Collector not less than once each fifteen (15) days, together with a duplicate of the receipt therefore. Such receipts and the necessary records in connection herewith shall be prepared and handled and maintained as a permanent record and such sums of money shall be handled, all in the form and manner prescribed by the City Secretary.

**SECTION 14.** Any owner, lessee, occupant, or any agent, representative or employee of any owner, lessee or occupancy, or any person having ownership, occupancy or control of any land or improvements thereon who shall fail, refuse or neglect to remove or abate any condition defined as a nuisance in this chapter within ten (10) days from the date of service of notice thereof as provided for in this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00); provided, however, if a person is convicted of any offense under this section which offense is also a violation of the criminal provisions of any state law, such person shall be subject to the criminal penalties set out in state law. Each day any violation of this continues shall constitute a separate offense.

**SECTION 15.** In addition to the Mayor, City Secretary, Public Works Supervisor and employee thereof who has the immediate care, custody and control of the city's records pertaining to the abatement of nuisances is hereby authorized to act for the Mayor in

certifying a statement of expenses and causing said statement and lien to be filed of record as provided for in this article. The Mayor, City Secretary, or employee of the City, having the immediate care, custody and control of the department's records pertaining to the abatement of nuisances is hereby authorized to execute releases on behalf of the City of any and all liens created under the provisions of this article. The Mayor, City Secretary, Public Works Supervisor or employee shall have no right to execute such releases until satisfied that the debt or portion thereof secured by the lien has been paid in full to the City, and such lien shall be released only insofar as it affects the property for which the debt secured thereby has been paid in full.

**SECTION 16.** That if any part of this Ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

**SECTION 17.** That this Ordinance shall become effective and be in full force and effect from and after the date of passage and publication as required by law, and **IT IS SO ORDAINED.**

**PASSED AND APPROVED THIS THE 11<sup>TH</sup> DAY OF AUGUST, 2008.**

  
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Rodolfo Saldana, Mayor

Attest:

  
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City Secretary