

AN ORDINANCE AMENDING ARTICLE II, NUISANCES, OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF HILL COUNTRY VILLAGE TO ADD DEFINITIONS, TO SET OUT PROHIBITED NUISANCES, TO PROVIDE FOR NOTICES, AND TO SET A FINE OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH VIOLATION WITH EACH DAY VIOLATION EXISTS TO CONSTITUTE A SEPARATE OFFENSE.

WHEREAS, Article II of Chapter 38 of the Code of Ordinances of the City of Hill Country Village has provisions in regard to nuisances; and

WHEREAS, the City Council believes that the city should have more specific provisions to deal with nuisances and obtain abatement of nuisances and compliance with the nuisance ordinance; and

WHEREAS, the City Council has determined that the current Article II of Chapter 38 of the Code of Ordinances should be repealed and a new Article II of Chapter 38 of the Code of Ordinances should be adopted.

NOW, THEREFORE, IT IS ORDERED by the City Council of the City of Hill Country Village, that:

Section 1. Article II of Chapter 38 of the Code of Ordinances is repealed.

Section 2. A new Article II of Chapter 38 of the Code of Ordinances is hereby adopted to read as follows:

Sec. 38-41. – Definitions

Definitions: As used in this Article 2, the following words, terms, and phrases shall be defined as follows:

Brush means all trees and shrubs less than seven feet in height that are not cultivated and maintained. Brush also means low woody vegetation, dense undergrowth, decaying scrub vegetation, or the dead remains of such.

Carcass and *offal* are defined as the whole or any part of, or the entrails of, an animal that died or has been killed. Likewise the definition shall include dead large sized birds, dogs, cats, or pets.

City is defined as City of Hill Country Village.

Dead tree is defined as any tree where there is no growth, which has been cut or has been left standing, such that it is no longer living. A dead tree or shrub can likewise be a tree or shrub that has been determined to be dead by a designated person from the city or a commercial arborist.

Debris means accumulations of, but not limited to, earth, rocks, concrete, landscaping material, waste building materials, or other construction remains left on the property that is not associated with current construction on the lot.

Dangerous materials is defined as, but not limited to liquids, solids, structures, or components of structures that might create either directly or indirectly because of a chain reaction, harm to any property or person that would affect the public's life, health, safety, or general welfare within the township limits.

Junk means used iron, metal, furniture, tires, appliances, and other similar items discarded or abandoned on the property or premises.

Public nuisance means the permit of, or the maintaining of, an unlawful condition, act, or use of any property affecting the public's life, health, safety, or general welfare within the city limits.

Rubbish means garbage, trash, or other discarded personal property.

Sewage is defined as refuse liquids or waste matter usually carried off by sewers.

Stagnant or polluted water or liquids is defined as a liquid that is not flowing or moving and perhaps has become foul from lack of movement or treatment so as to increase the growth of bacteria, waterborne microbes, or enhance the growth of mosquito larvae. Included, but not limited to, vessels that could harbor stagnant or polluted liquids are jars, buckets, tires without rims, ponds, swimming pools in disrepair, tanks, cattle feeders, barrels, barbeque pits, garden flower pots, etc.

Weeds means grass and/or uncultivated vegetation other than trees and shrubs that exceed 12 inches in height from the ground or an area on the lot or property where ground cover is unkempt such that it could become a breeding place or harborage for mosquitoes or vermin.

Sec. 38-42. - Nuisances declared.

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

Sec. 38-43. -Prohibited nuisances.

- (a) *Prohibited public nuisance.* It shall be unlawful for any person to cast, throw, drop, dump, place, sweep or deposit garbage, rubbish, brush, dead trees, carcass and offal, sewage, debris, junk or dangerous materials onto any lot, street, street sidewalk, park, or other public place, vacant lot, or yard space viewable from the public right-of-way in the city. Furthermore, it shall be unlawful to take action described herein toward, in, or upon the

waters of any water course or public waters, or in any drain within the city or upon or about any buildings or premises within the city.

- (b) *Prohibited health and safety conditions.* It shall be unlawful for any person who has control of any lot or premises, whether owned, leased, or rented or left under the care of, to knowingly permit, allow or authorize the existence of a public nuisance on such lot or premises, including an accumulation of uncontained garbage, rubbish, brush, weeds, dead trees, carcass and offal, sewage, debris, junk, or dangerous materials.
- (c) *Prohibited conditions designated-stagnant water.* It shall be unlawful for the owner of any lot or other premises in the city to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises or to allow or permit the accumulation of stagnant or polluted water thereon or to permit the same to remain thereon.

Sec. 38-44. - Unlawful storage of construction materials and equipment.

- (a) The placement and storage of construction materials including but not limited to asphalt, gravel, caliche, dirt, construction scraps, concrete and other such construction type materials, on residential property for other than personal use its hereby prohibited. The storage of construction machinery and equipment including but not limited to dump trucks, backhoes, tractors, ditch diggers, pipe trenchers, chemical toilets, and other construction machinery parked and stored on residential property is hereby prohibited.
- (b) The storage of the construction materials above will be allowed on a residential lot if the materials are necessary for the construction of a facility, building or road on a residential lot. However the storage of these types of materials or equipment is limited to the length of the life of the building permit.

Sec. 38-45. - Matter brought to attention of city council.

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

Sec. 38-46. - Written notice issued to owner of nuisance property.

Whenever the existence of any nuisance defined in this article, on any lots or parcels of real estate situated within the city, shall come to the knowledge of the code compliance officer, 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 times within ten 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 insanitary 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 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 therefor, 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.

Sec. 38-47. - Refusal of owner to remove nuisance.

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 article, it shall be the duty of the director of public health to cause the weeds, brush, rubbish or other insanitary 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 code compliance officer or a duly authorized representative of the code compliance officer, 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. The city council hereby finds and declares that general overhead of administrative expense of inspection, locating owner, issuing notice, re-inspection and ordering work done, together with all necessary incidents of same, require a reasonable charge, in an amount as determined from time to time by the city council for each lot, each series of two or more adjacent and contiguous lots, or tract or parcel of acreage, and such minimum secured bid for the doing of the work herein mentioned during a stipulated time not to exceed one year.

Sec. 38-48. - All notices prepared and mailed by health director or designee.

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 division, shall be prepared and mailed by the health director or his nominee.

Sec. 38-49. - Penalty and fine for uncooperative property owner, lessee or occupant.

Any owner, lessee, or occupant, whether a natural person or a corporation, or any agent, servant, representative or employee of any such owner, lessee, or occupant, including any person having ownership, occupancy or control of any premises or lot or lots or parcel of real estate or any part thereof, or any interest therein, or improvements thereon, situated within the limits of the city, on which there exists any nuisance as defined in this chapter, who shall allow or permit any such nuisance to be created or to remain and continue if created and established, or who shall fail, refuse or neglect to remove or abate such nuisance, by one of the methods provided in this article or otherwise regulating such premises, so as to prevent such a nuisance, within ten 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 fined an amount not to exceed \$500 for each violation and each day during which such failure, refusal or neglect shall continue to exist, shall constitute a separate offense.

Sec. 38-50. - Statement of expenses and lien on nuisance property.

In addition to the code compliance officer, any city employee who has the immediate care, custody and control of the city records pertaining to the abatement of nuisances is hereby authorized to act for the code compliance officer in certifying a statement of expenses and causing said statement and lien to be filed of record as provided for in this article. The code compliance officer, or any employee of the city having the immediate care, custody and control of the city 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. Such persons shall have no right to execute such releases unless and until satisfied that the debt or portion thereof secured by the lien and for which a release is requested has been paid in full to the city, and any such lien shall be released only insofar as it affects the property for which the debt secured thereby has been paid in full.

Sec. 38-51. - All monies for abatement of nuisances handled by health director or designee.

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 code compliance officer or his nominee. Any such payment or collection so made shall be received by and receipted for by the code compliance officer, or one of his duly authorized assistants. Such sums of money so received by the code compliance officer shall be turned over by him to the city secretary not less than once each 15 days, together with a duplicate of the receipts issued therefor, whereupon an official receipt therefor will be provided. Such receipts and the necessary records in connection therewith 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 Administrator.

Section 3. This ordinance shall become effective on passage and adoption.

Section 4. The City Administrator shall arrange for publication of the caption of this ordinance in the official newspaper of the city.

Passed and adopted this 15th day of November, 2018.

Gabriel Durand-Hollis, Mayor

ATTEST:

Frank Morales, Acting City Secretary

