

**ORDINANCE NO. 06232016**

**BRUSH, WEEDS, OVERGROWN GRASS, AND DEBRIS**

AN ORDINANCE OF THE CITY OF NORMANGEE, TEXAS (“CITY”), ESTABLISHING PROCEDURES FOR THE ABATEMENT OF WEEDS AND OTHER NUISANCES; TO INCLUDE ENFORCEMENT AND PENALTIES NOT TO EXCEED \$2,000.00 PER OFFENSE; AND FOR THE RECOVERY OF COSTS THEREOF; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, DECLARATION OF NUISANCES, ENFORCEMENT AND ABATEMENT PROVISIONS, PENALTIES, SEVERABILITY, REPEALER, PUBLICATION, EFFECTIVE DATE, AND PROPER NOTICE & MEETING.

**WHEREAS**, the City Council of the City of Normangee (“City Council”) is authorized by the Texas Government Code, Section 51.001, to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for implementing a power granted by law to the City; and

**WHEREAS**, the City Council has determined it should adopt this Ordinance prohibiting the growth of grass, weeds, and other vegetation in an uncultivated manner and the accumulation of rubbish, trash, debris, brush, or any other objectionable, unsightly, and unsanitary matter and litter within the City; and

**WHEREAS**, the City Council has found and determined that to properly implement this Ordinance and abate violations thereof, it is necessary to investigate complaints, determine the name and address of the owner or occupant of the property, prepare and send out appropriate notices, file certain notices and liens with the county clerk, and supervise the conduct of the work; and

**WHEREAS**, pursuant to Chapter 342 of the Texas Health and Safety Code, as amended, the City Council wishes to establish regulations requiring owners and occupants of property within the City to keep such property free of high grass, weeds and other vegetation and the accumulation of rubbish, trash, debris, brush, or any other objectionable, unsightly, and unsanitary matter.

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

## ARTICLE 1: FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if set forth herein at length.

## ARTICLE 2: DEFINITIONS

1. *Nuisance* shall mean anything which is injurious to the health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property. For purposes of this article, any weeds, grass or other vegetation permitted to grow on any premises within the City to a height greater than twelve (12) inches is hereby deemed to be a nuisance and dangerous to the health of the public and a fire hazard.
2. *Occupant* means any person, firm or corporation, both public and private, claiming or having possessory control of any property.
3. *Owner* means any person, firm or corporation, both public and private, claiming title of any property.

## ARTICLE 3: HEALTH AND SAFETY NUISANCE PROVISIONS

### Section 1.1 Duty of property owner and occupant.

- (a) It shall be the duty of every owner or occupant of any lot or parcel of ground within the City to keep the property owned or occupied by him/her free from stagnant water, weeds, tall grass, rubbish, brush, trash and any and all other objectionable, unsightly or unsanitary matter of whatsoever nature that is a nuisance as defined in this article, and to keep the sidewalks adjacent to his/her property from the line of such property to the established curblines next adjacent thereto, free and clear from weeds and tall grass that exceed twelve (12) inches, and to fill up, drain or regrade any lots, ground or yards and any other property owned or occupied by him/her which shall be unwholesome or have stagnant water therein, or which from any other cause, is in such condition as to be liable to produce disease, insect or rodent infestation, and to keep any and every house, building, establishment, lot, yard or ground owned by him/her at all times free from filth, carrion or impure or unwholesome matter of any kind.
- (b) It shall be unlawful for any person owning or occupying any vacant lot within the City to permit such lot to become a gathering location for unauthorized persons, a shelter or

dumping ground for garbage or debris, unhealthy, unsightly or unclean, or to fail to clear off such premises, abate such conditions and make the property sanitary and clean as soon as he/she has knowledge of the existence of such conditions.

### Section 1.2 Order to Abate Nuisance and Enforcement.

Every person owning or possessing any place in or on which there exists a nuisance as described in this article, shall, as soon as its existence comes to his/her knowledge, proceed at once to abate the nuisance. In the event that any person fails to comply with the provisions of this article, the person designated as the City code enforcement official or any police officer of the City may at his/her discretion:

- (a) Issue a warning notice;
- (b) Issue one (1) or more citations for violation of this ordinance without prior notice;
- (c) Commence abatement action in accordance with the process described below; or
- (d) Request the City Attorney to institute suit for civil remedies as provided by state law.

### Section 1.3 Notice of violation and Abatement Action.

- (a) Whenever weeds, grass or other plants are allowed to grow; trash, debris or rubbish is allowed to accumulate; or any other unhealthy, unsanitary or unsightly condition is allowed to occur or remain upon any premises of the city as prohibited by this ordinance, the person designated as the City Code enforcement official or any police officer of the City shall determine whether or not such condition is sufficient to constitute a nuisance as herein defined, and if so found, the City Secretary shall give notice to the owner of the property that the premises must be cleaned up and the nuisance abated within seven (7) days from the date of such notice.
- (b) The notice shall be given:
  - (1) Personally to the owner in writing;
  - (2) 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
  - (3) If personal service cannot be obtained notice shall be deemed given to the owner;
    - (A) By publication at least once in a newspaper of general circulation in the City;
    - (B) By posting notice on or near the front door of each building on the property to which the violation relates; and
    - (C) By posting the notice on a placard attached to a stake driven into the ground on the property in which the violation relates.

- (c) If the city mails a notice to the property owner in accordance with subsection (b) and the United States Postal Services returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected and the notice is considered delivered.

Section 1.4 Enforcement; Penalty for Violation.

- (a) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance when notified to do so shall upon conviction be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
- (b) In addition to any other remedy at law or equity provided in this Ordinance or any other ordinance of this City and cumulative thereof, the City shall have the power by resolution of the City Council after notice is given to the owner of the property in accordance with this ordinance, to cause any of the abatement or work referenced in this Ordinance to be done at the expense of the City on the account of the owner of the property on which the abatement or work is done, and to cause the expense thereof to be assessed as a lien upon the property in accordance with Chapter 342 of the Texas Health and Safety Code.
- (c) In a notice provided under this section, a municipality 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 municipality 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 municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted by Subsection b and assess its expenses as provided by Chapter 342 of the Texas Health and Safety Code.

Section 1.5 Remedies.

- (a) The City shall exercise the powers granted in V.T.C.A., Health and Safety Code chapter 342 (“Chapter 342”), and as amended. This includes, but is not limited to:
  - (1) The City may assess expenses incurred under Section 342.006, as amended, against the real estate on which the work is done or improvements made.
    - (A) If the owner of property in the City does not comply with this Ordinance within seven (7) days of notice of a violation, the City may:
      - (i) do the work or make the improvements required; and

- (ii) pay for the work done or improvements made and charge the expenses to the owner of the property.
- (2) To obtain a lien against the property pursuant to Chapter 342 of the Texas Health and Safety Code.
- (3) Additional Authority to Abate Dangerous Weeds
  - (A) The city may abate immediately and without notice, weeds that:
    - (i) have grown higher than 48 inches; and
    - (ii) are an immediate danger to the health, life, or safety of any person.
  - (B) The city shall give notice to the property owner, not later than the 10<sup>th</sup> day after the date the city abates weeds under this section.
  - (C) The notice shall contain:
    - (i) an identification, which is not required to be a legal description, of the property;
    - (ii) a description of the violations 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 weeds.
  - (D) The city shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of weeds, the owner files a written request for a hearing with the city.
  - (E) The city shall conduct the administrative hearing not later than the 20th day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of weeds.
  - (F) The city may assess expenses and create liens under this section in the same manner and subject to the same conditions set forth in Chapter 342 of the Texas Health and Safety Code.

#### **ARTICLE 4. REPEALER**

If any provision of this Ordinance conflicts with any provision in another Ordinance, resolution or order of the Council, then the stricter provision shall apply.

#### **ARTICLE 5. SEVERABILITY**

If any word, article, phrase, paragraph, sentence, clause or provision of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other

provisions or application of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**ARTICLE 6. SAVINGS**

All rights and remedies of the City of Normangee are expressly saved as to any other ordinances affecting nuisances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**ARTICLE 7. PUBLICATION**

The City Secretary is hereby directed to record and publish the caption of this ordinance and the penalty for violation of the ordinance in the newspaper of general circulation within the City.

**ARTICLE 8. EFFECTIVE DATE**

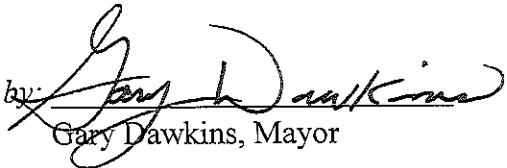
This Ordinance shall take effect immediately from and after its passage and publication as required by governing law.

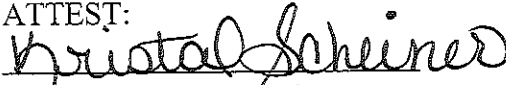
**ARTICLE 9. PROPER NOTICE AND OPEN MEETING**

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 the meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this the 23<sup>rd</sup> day of June, 2016, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the City of Normangee, Texas.

**CITY OF NORMANGEE, TEXAS**

by:   
Gary Dawkins, Mayor

ATTEST:  
  
Kristal Scheiner, City Secretary