

ORDINANCE NO. 263

AN ORDINANCE DECLARING AND DEFINING A NUISANCE; REQUIRING EVERY OWNER OF ANY LOT OR PARCEL OR GROUND, OCCUPIED OR UNOCCUPIED, TO KEEP SUCH PROPERTY FREE OF TRASH, RUBBISH, DISCARDED FURNITURE, HOUSEHOLD APPLIANCES AND OTHER OBJECTIONABLE AND UNSIGHTLY MATERIAL; CAUSING IT TO BE UNLAWFUL TO PERMIT GRASS AND WEEDS TO GROW MORE THAN TWELVE (12) INCHES IN HEIGHT; MAKING IT THE RESPONSIBILITY OF THE OWNER OR PERSON IN CHARGE TO REMOVE TRASH AND OBJECTIONABLE MATTER, ETC; ESTABLISHING GUIDELINES FOR REAL PROPERTY USED FOR AGRICULTURE PURPOSES; AUTHORIZING THE FIRE MARSHAL TO NOTIFY OWNERS OR PERSONS IN CONTROL OF PREMISES NOT DEDICATED TO AGRICULTURAL PURPOSES; AUTHORIZING THE FIRE MARSHAL TO CAUSE ABATEMENT OF NUISANCE; CHARGE FOR REMOVAL OF WEEDS, ETC. TO BE THE OWNERS EXPENSE; AUTHORIZING THE FIRE MARSHAL TO MAINTAIN A LIST OF PRIVATE CONTRACTORS; PROVIDING A PENALTY OF THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$37.50) TO TWO HUNDRED (\$200.00) DOLLARS; PROVIDED THE EXCEPTIONS AND EXEMPTIONS SHALL NOT BE NEGATIVED IN COMPLAINTS; PROVIDING FOR CATCH LINES; PROVIDING A SAVING CLAUSE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
WHITEHOUSE, TEXAS:

SECTION I. NUISANCE DECLARED.

The accumulation of trash, rubbish, brush, discarded furniture, discarded household appliances or any other unsanitary, unwholesome or unsightly matter upon any property, occupied or unoccupied, within the corporate limits of the city, shall constitute a nuisance as a public health and/or fire hazard and shall be subject to the provisions of this ordinance.

SECTION II. LOTS AND SIDEWALKS TO BE KEPT FREE FROM STAGNANT WATER, WEEDS, TALL GRASS, RUBBISH, BRUSH, ETC.

It shall be unlawful for any person, firm or corporation owning, claiming, occupying or having supervision or control of, any real property, occupied or unoccupied, within the corporate limits of the city, to permit trash, rubbish, discarded furniture, household appliances or any objectionable, unsightly or unsanitary matter to accumulate. It shall be the duty of such person, firm, or corporation to keep the property free and clear of the matter herein referred to.

SECTION III. UNLAWFUL TO PERMIT WEEDS OR GRASS TO GROW IN EXCESS OF TWELVE INCHES.

It shall be unlawful for any person, firm or corporation 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 or grass to grow to a height greater than twelve (12) inches upon the premises, including the front or side parkway between the property line or sidewalk and the curb, and the rear or side parkway between the property line and the alley pavement or traveled way, provided that where the alley is not open to traffic, the parkway in such cases shall be considered to be between the property line and the center line of the alley. Any premises upon which weed or grass are permitted to a height greater than twelve (12) inches shall be deemed a nuisance as a fire hazard and as dangerous to public health. It likewise shall be unlawful for any owner or person in control of any premises within the city to leave weeds or grass on such premises after they have been cut; and it shall be the duty of the owner or person in control of any premises within the city to remove weeds or grass from such premises after they have been cut.

SECTION IV. DUTY OF OWNER OR PERSON IN CHARGE TO REMOVE TRASH, OBJECTIONABLE MATTER, ETC.

It shall be the duty of any owner or person in control of any occupied or unoccupied premises to remove all trash, rubbish, discarded furniture, household appliances, or any objectionable, unsightly, or unsanitary matter from the premises and properly dispose of said items. It shall be the duty of any owner or person in control of any occupied or unoccupied premises to cut and remove all weeds and grass growing to a height greater than twelve (12) inches upon said property. The cutting and removing of weeds or grass at least three (3) times per calendar year shall be deemed in compliance with this ordinance; and the owner or person in charge shall use every precaution to prevent the same growing on such premises so as to become a nuisance as herein defined.

SECTION V. REAL PROPERTY USED FOR AGRICULTURAL PURPOSES OR INTENDED FOR DEVELOPMENT OR INVESTMENT; CROPS, WEEDS, OR GRASS IN RIGHT-OF-WAY OF STREET OR EASEMENT.

It shall be unlawful for any owner or person in control of real property dedicated to an agricultural use to allow cultivated crops to grow within the right-of-way of any public street or easement, but same shall be kept mowed as provided above. Real property not used for agricultural purpose intended for development or investment purposes shall be maintained in accordance with sections 2 and 3 of this ordinance. Cutting or mowing of weeds and grass growing to a height greater than twelve (12) inches and the removal of trash, rubbish, discarded furniture, household appliances, or objectionable, unsightly and unsanitary matter within one hundred fifty (150) feet of any property line shall be deemed a compliance with this article; and the owner or person in charge shall use every precaution to prevent same growing or accumulating on such premises so as to become a nuisance as herein defined.

SECTION VI. NOTICE TO OWNER OR PERSON IN CONTROL OF PREMISES NOT DEDICATED FOR AGRICULTURAL PURPOSES; FAILURE TO ABATE.

The Fire Marshall is authorized to notify the owner or person in control of any premises within the city, not dedicated to an agricultural use, on which trash, rubbish, discarded furniture, household appliances, or objectionable, unsightly and unsanitary matter has been accumulated, or grass or weeds have grown to a height greater than twelve (12) inches, to abate said nuisance within ten (10) days. The notice shall be in writing, issued only one time, and may be served on the owner or person in control of the premises by handing

it to him in person or by United States post office first-class mail, or by publication at least two (2) times within ten (10) consecutive days, if personal service may not be had, or the owner's address is not known. Failure of the owner or person in control to abate the said nuisance within ten (10) days will constitute prima facie evidence of violation of this ordinance.

SECTION VII. CITY FIRE MARSHAL TO ABATE, WHEN.

Upon the failure of the owner or person in control to comply with notice, as set forth in section 6 of this ordinance, or upon the written request and authorization of such owner or person in control so notified, the City Fire Marshal is authorized to abate said nuisance. All costs involved with the abatement of the nuisance will be the responsibility of the property owner or person in control. Prior to the abatement of the nuisance by the City Fire Marshal, effort shall be made to obtain compliance with this ordinance by the owner or person in control of the premises. If, after twenty-five (25) days of the original notification, the owner or person in control has failed to comply with this ordinance, the City Fire Marshall shall initiate action to abate the nuisance.

SECTION VIII. CHARGE FOR REMOVAL OF WEEDS, ETC., BY CITY.

In addition to the remedy provided in applicable sections of this ordinance, the City Fire Marshal, after giving to the owner of the property ten (10) days' personal notice in writing, or by notice sent by certified United States mail addressed to such owner at his post office address, or by publication as many as two (2) times within ten (10) consecutive days if the owner's address or whereabouts be not known, may cause any of the work or improvements mentioned in applicable sections to be done at the expense of the city, on the account of the owner of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expense is incurred. All of the cost to the city in cutting any weeds or correcting any condition upon any lot so as to conform to the terms and provisions of this ordinance shall be a lien upon the real estate or lot upon which the expense is incurred as provided by Article 4436 of the Revised Civil Statutes.

SECTION IX. CITY FIRE MARSHAL TO MAINTAIN LIST OF PRIVATE CONTRACTORS, ETC.

The City Fire Marshal will maintain a list of private mowing and hauling contractors, approved by the city, which will be made available to the public. These contractors

will be utilized on a rotating basis when their services are required.

SECTION X. PENALTY.

Any person, firm or corporation violating any provisions of this ordinance shall be subject to a fine, upon conviction in the municipal court, of not less than thirty-seven dollars and fifty cents (\$37.50) nor more than two hundred dollars (\$200.00) for each violation; and each and every day that the premises shall remain in a condition in violation of the terms of this ordinance shall constitute a separate and distinct offense, and shall be punishable as herein provided.

SECTION XI. EXCEPTIONS AND EXEMPTIONS NOT REQUIRED TO BE NEGATIVED.

In any complaint and in any action or proceedings brought for the enforcement of any provision of this ordinance, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this ordinance, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

SECTION XII. CATCHLINES.

The catchlines of the several sections of this ordinance immediately following each section number, or subsection letter or number are intended as mere catchwords to indicate the contents of the section or subsection and shall not be deemed or taken to be titles or such sections, nor as any part of the section, nor, unless expressly so provided, shall they be deemed when any of such section, including the catchlines are amended or re-enacted.

SECTION XIII. SAVINGS CLAUSE.

It is hereby declared to be the intention of the City Council of the City of Whitehouse, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION XIV. EMERGENCY.

The fact that the present ordinances and regula-

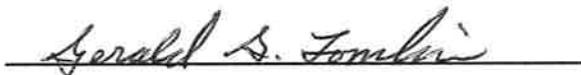
tions of the City are inadequate to properly prevent vacant lots and other premises from becoming a nuisance from tall grass, weeds, and other unwholesome causes within the corporate limits of the City creates an emergency for the immediate preservation of the public business, property, health, safety and general welfare of the public which requires that this ordinance shall become effective from and after the date of its passage, and it is accordingly so ordained.

PASSES AND APPROVED by the City Council of the City of Whitehouse, Texas, this the 23rd day of June, 1986.



Richard Waller, Mayor

ATTEST:



City Secretary

APPROVED AS TO FORM:

City Attorney