



ORDINANCE 22-0628-01

AN ORDINANCE, AMENDING AND REPLACING ORDINANCES #13-0521-02 DATED MAY 21, 2013, ORDINANCE 16-1025-02 DATED OCTOBER 25, 2016 AND ORDINANCE 17-0124-04 DATED JANUARY 24, 2017 REGULATING NUISANCES INSIDE THE CITY LIMITS AND 1000 FEET INTO THE EXTRA TERRITORIAL JURISDICTION (ETJ) BY UPDATING SECTION 2 TRASH, SECTION 3 WEEDS AND GRASS SECTION 8 ENFORCEMENT PROVISIONS: NOTICE AND SECTION 9 ENFORCEMENT PROVISIONS: FAILURE TO ABATE OR REMEDY; REPEALING ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is in the interest of the public health, safety and welfare that real property, occupied or unoccupied, shall be kept free and clear from nuisances in the City of Whitehouse and Whitehouse's extraterritorial jurisdiction for a distance of one thousand (1,000) feet from the city limits; and

WHEREAS, the City Council of the City of Whitehouse finds the following ordinance to be reasonable and beneficial to the general health, safety and welfare of the citizens of Whitehouse; and

WHEREAS, the City of Whitehouse has the authority under State law to regulate these matters in accordance with applicable law.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Whitehouse, Texas that the Code of Ordinances is amended to read as follows:

SECTION 2. STAGNANT WATER, RUBBISH, TRASH, CARRION OR OTHER IMPURE OR UNWHOLESOME 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 or ETJ, to allow such property to contain stagnant water, rubbish, trash, filth, carrion or other impure or unwholesome matter of any kind or to allow the sidewalks in front of this property to contain the same; and to allow any lots, grounds or yards to remain unwholesome or with stagnant water thereon as a result of such owner's failure to cleanse and disinfect any house, building, establishment, lot, yard, or ground from rubbish, trash, filth, carrion or other impure or unwholesome matter of any kind.

SECTION 3. WEEDS, GRASS OR BRUSH

On private property

Maximum height

- (A) Improved property: It shall be unlawful for any person, firm or corporation owning, claiming, occupying, or having supervision or control of any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, within the city limits or ETJ, to permit grass, weeds, brush or other vegetation that is not cultivated to grow to a height greater than twelve (12) inches on an average upon said premises.

- (B) Unimproved property: It shall be unlawful for any person, firm or corporation owning, claiming, occupying, or having supervision or control of any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, within the city limits or ETJ, to permit grass, weeds, brush or other vegetation that is not cultivated to grow to a height greater than twelve (12) inches on an average upon said premises within one hundred (100) feet of any property line.

Exception

Land used for the agricultural purposes of grazing livestock and/or growing and harvesting of crop grasses shall be exempt from this article except that a ten (10) foot area adjacent to the side and rear property lines shall be maintained at twelve (12) inches or less at all times.

Adjacent to private property

It shall be the duty of any person, firm or corporation owning, claiming, occupying or having supervision or control of any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, within the city limits or ETJ, to maintain grass, weeds, brush or other vegetation that is not cultivated, along the sidewalk and/or street adjacent to the property between the property line and the curb, or if there is no curb then to the paved roadway, at a height not greater than twelve (12) inches on an average.

Applicability to drainage ditches, waterways, etc.

This article shall specifically include but not be limited to all drainage ditches, drainage easements, water runoff paths, or ways, waterways, and all embankments and sides thereof.

SECTION 8. ENFORCEMENT PROVISIONS: NOTICE OF VIOLATION; SUBSEQUENT VIOLATIONS WITHIN ONE YEAR

- (A) In the event that any person, firm or corporation owning, claiming, occupying or having supervision or control of any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, within the city or ETJ, fails to comply with the provisions of this article, then the city manager or their designated representative will give ten (10) days notice to the property owner in writing of the violation, in person or by first class mail addressed to that person at the address listed with the Smith County Appraisal District. The city shall have complied with this requirement by advising owners of their responsibilities under this article one (1) time per calendar year.

- (B) If the city mails the notice in accordance with subsection (A) above and the United States Postal Service returns the notice as “undeliverable,” the validity of the notice is not affected, and the notice is considered as delivered.
- (C) In the notice provided above the city may inform the owner by regular mail 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 expense against the property. If a violation covered by a notice under this article 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 may, without notice, take any action permitted by Section 9 below and assess its expenses as provided by the Texas Health and Safety Code section 342.007, as it may be amended from time to time.

SECTION 9. ENFORCEMENT PROVISIONS: FAILURE TO ABATE OR REMEDY

City may do work and bill property owner

- (A) Authority to do work. If the person, firm or corporation fails or refuses to comply with the provisions of this article following the expiration of not less than ten (10) days of the date of the notification, the city may then enter the premises and do that work as necessary or cause the same to be done in order that the premises comply with the requirements of this article. The city may enter onto such premises and may do such work as necessary, or cause the same to be done, as often as violations exist, without further notification to the property owner per calendar year.
- (B) Assessment of costs; administrative fee; lien. A bill for the actual cost incurred, plus an administrative charge as found in the fee schedule, resulting from the abatement of the above-described condition shall be sent to the owner of said premises and must be satisfied within thirty (30) days of the date of mailing of said bill. In the event that said bill has not been satisfied within the specified period, the city may file a statement with the county clerk of the expenses incurred in the abatement of the above-described condition on said premises and the city shall have a privileged lien on any lot or lots upon which said expense is incurred second only to tax liens and liens for street improvements to secure the expenses incurred, together with ten percent (10%) interest from the date such payment was due. For any such expenditure as aforesaid, suit may be instituted and recovery and foreclosure had in the name of the city, and the statement so made as aforesaid, or a copy thereof, shall be prima facie proof of the amount expended in any such work performed by the city.
- (C) Immediate abatement of weeds over 48 inches in height. The city may immediately abate the nuisances of weeds in excess of forty-eight (48) inches in height which are an immediate danger to the health, life or safety of any person.

State law reference—Additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code, sec. 342.008.

SAVINGS CLAUSE

It is the intent of the Whitehouse City Council that the sections, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any section, subsection, sentence, clause, or phrase shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining sections, subsections, clauses, or phrases of this ordinance, to the extent possible.

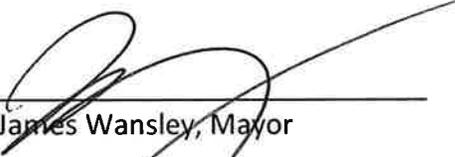
REPEALING CLAUSE

This ordinance repeals and replaces all prior ordinances or parts of ordinances in conflict herein.

EFFECTIVE DATE

This ordinance becomes effective and enforceable when signed by the Mayor and attested to by the City Secretary.

PASSED, APPROVED, and ADOPTED on this 28 day of June 2022.



James Wansley, Mayor

ATTEST:


Susan Hargis, City Secretary