

ORDINANCE NO. 216

AN ORDINANCE AMENDING ORDINANCE NO. 115 OF THE CODE OF ORDINANCES OF THE CITY OF BEVIL OAKS; AND PROVIDING FOR REGULATION OF GARBAGE, TRASH, WASTE AND OTHER REFUSE ON PUBLIC AND PRIVATE PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF BEVIL OAKS AND REGULATING GRASS, LEAVES, SHRUBS, WEEDS, BRUSH, AND OTHER DEBRIS WITHIN SAID CITY; PROVIDING A PENALTY AND SEVERABILITY CLAUSE; AND, REPEALING ALL ORDINANCES IN CONFLICT.

WHEREAS, accumulation of garbage, trash, waste and other refuse on public and private property within the city limits of the City of Bevil Oaks creates health and sanitation problems and is a nuisance to the Citizens of Bevil Oaks;

WHEREAS, the City Council of the City of Bevil Oaks desires to restrict such accumulations within the City;

WHEREAS, no person may throw or deposit litter or junk on occupied, unoccupied or vacant privately owned property within the City. No person may accumulate, or allow to accumulate, litter, junk, rubbish or garbage on occupied, unoccupied or vacant privately owned property within the City;

WHEREAS, typical violations of this Ordinance include accumulation of trash, wood debris, building and fencing materials, indoor furniture, appliances, tires, car parts, and other related materials, garbage, trash, refuse, and other miscellaneous debris;

WHEREAS, it shall be unlawful for the owner or occupant of a property within the City to utilize the premises of such property for the open storage of the following enumerated items, including but not limited to, appliances, refrigerators, stoves, glass, carpet, upholstered furniture, tires, auto parts, building rubbish, or other similar items, including grass, leaves, shrubs, weeds, brush, and other debris within the City. It shall be the duty and responsibility of each such owner or occupant to keep the premises within the City clean and in compliance with this ordinance;

WHEREAS, illegal dumping harms the environment and creates a danger to public health and safety. Violators caught illegally dumping trash, debris, and creating a public health nuisance will be fined immediately. Residents are asked to record license plate numbers of illegal dumpers and to report the incident to the City Marshal immediately, making it easier for law enforcement to catch the culprits;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Bevil Oaks:

SECTION 1: Ordinance No. 115 of the Code of Ordinances of the City of Bevil Oaks is hereby repealed.

SECTION 2: DEFINITIONS: When not inconsistent with the context, words used in the present tense shall include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Debris: For the purpose of this Ordinance, debris is defined as, but not limited to, the remains of any item that has been broken down, discarded or destroyed such as: limbs, trees, logs, poles, wire, cross-ties, wood material and wood products, metal material and metal products of any kind whatsoever.

Garbage: For the purpose of this Ordinance, garbage is defined as, but not limited to, the following: food waste, cardboard boxes, empty cans or any other item discarded or deemed as useless.

Trash: For the purpose of this Ordinance, trash is defined as, but not limited to, the following: discarded furniture and appliances, broken down fencing, automotive parts, and any other article or item, whether or not in a crumbled or broken condition, that spoils or ruins the appearance of the property.

Refuse: For the purpose of this Ordinance, refuse is described as, but not limited to, any item whether personal, household or commercial in nature that is thrown aside or left as worthless.

Litter: For the purpose of this Ordinance, litter shall mean garbage, refuse and rubbish, and all other waste material which, if thrown or deposited as prohibited in this Ordinance, tend to create a danger to public health, safety and welfare.

Junk: For the purpose of this Ordinance, junk shall mean all worn out, worthless and discarded material, including odds and ends of old iron or other metal, glass and cordage.

Nuisance: For the purpose of this Ordinance, the word "nuisance" is defined as any person doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- a. injures or endangers the comfort, repose, health or safety of others; or
- b. offends decency; or
- c. is offensive to the senses; or
- d. unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- e. in any way renders other persons insecure in life or the use of property; or
- f. essentially interferes with another person's comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

Illustrative Enumeration: The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constitutes a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- a. noxious weeds and other rank vegetation;
- b. accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber, auto parts, or other things;
- c. any condition which provides harborage for rats, mice and other vermin;
- d. any building or other structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- e. all unnecessary or unauthorized noises and annoying vibrations, including animal noises;
- f. all disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- g. the carcasses of animals or fowl not disposed of within a reasonable time after death;
- h. the pollution of any public well or cistern, stream, lake, canal, drainage or other body of water by sewage, dead animals, industrial waste or other substances;
- i. any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- j. any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- k. dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;
- l. burning of trash, grass clippings, debris, wood, brush, etc.

**SECTION 3: DEPOSITING GARBAGE, TRASH, WASTE OR REFUSE OF ANY KIND
ON PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF BEVIL
OAKS:**

It shall be unlawful for any person to discard, sweep, throw or deposit any leaves, shrubs, garbage, trash, or refuse, animal waste, stagnant water, dead animals, or any other filthy substance of any kind into, upon or along any ditch, drain, gutter, sidewalk, street, alley, or vacant lot or upon any public or private premises within the property limits of the City of Bevil Oaks. It shall be unlawful for any person, the owner, lessee, or occupier of any dwelling, building, or other premises to accumulate, or permit to be accumulated and remain, any garbage, trash, waste or refuse, animal waste or other filthy substances upon such premises owner or occupied by such persons.

SECTION 4. PERMITTING GROWTH OF WEEDS ON LOTS OR PREMISES: It shall be unlawful and is hereby declared to be a public nuisance for any person, partnership or corporation including the occupants, owner, agents or representatives or any non-resident owner of any lot, tract or piece or parcel of land or any part thereof, or any other premises, whether vacant or occupied, within the City to allow grass, weeds, or bush of any description to grow, flourish or remain thereon whether actually growing or not, within 100 feet of the property line of developed property, without having same cut and at all times cut short to a height not greater than twelve inches (12") on an average from the surface of the ground or in rank profusion.

SECTION 5. PERMITTING DEBRIS TO ACCUMULATE ON PREMISES: It shall be unlawful and is hereby declared to be a public nuisance for any person, partnership, or corporation, including the occupants, owners, agents or representatives of any non-resident owner of any lot, tract or piece or parcel of land or any part thereof, or any other premises, whether vacant or occupied, within the City to place or permit to remain on the premises within 200 feet of the property line of developed property, limbs, trees, logs, poles, wire, cross-ties, wood material and wood products, metal material and metal products of any kind, furniture and appliances whether operable or not, whatsoever in an unsightly, objectionable, or unsanitary manner on said premises.

SECTION 6. It shall be the duty of the Marshal of the City of Bevil Oaks to notify the owner and/or agent of any premises within the City which is in violation of terms of this Ordinance to abate the nuisance within fifteen (15) days. This notice shall be in writing and may be served on the owner and/or agency by handing it to him in person, by certified mail, addressed to such owner and/or agent at his post office address, or by publication as many as two times within ten consecutive days.

SECTION 7. HEARING ON NUISANCE. A public hearing must be held prior to the abatement of the nuisance by the City when such a hearing is requested by the owner or occupant of the property upon which such nuisance exists or by the person causing or maintaining the nuisance. The hearing shall be held before the Municipal Court Judge. The Judge shall determine at the hearing whether or not a nuisance exists. If a nuisance is found to exist, the Municipal Court Judge shall order the abatement of the nuisance. Any ruling or order by the Municipal Court Judge at this hearing shall become final unless appealed within ten (10) days to a district court of the state.

SECTION 8. The notice to abate a nuisance shall be mailed, by certified mail, with a five day return receipt requested, to the owner or occupant of the property upon which such nuisance exists, or to the person causing or maintaining the nuisance. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not less than ten days from the date of such return.


SECTION 9. Should the owner of any lot, or premises upon which grass, weeds, or brush of any description, limbs, trees, logs, poles, wire, cross-ties, wood material and wood products, metal material and metal products and other debris of any kind whatsoever, have grown or have been permitted to grow or have accumulated or been permitted to accumulate in violation of this Ordinance, fail or refuse to cut, remove, pick up, clean up, or otherwise abate the nuisance as provided in this Ordinance within fifteen (15) days after notice, as provided herein, the Marshal is hereby authorized to cause said weeds, grass, brush of any description, limbs, trees, logs, poles, wire, cross-ties, wood material and wood products, metal material and metal products and other debris of any kind whatsoever, to be cut, removed, and the nuisance abated at the expense of the City, on the account of said owner, and to assess the expense thereof on the real estate upon which such expense is incurred. If the bill for the City's expenses in correcting or abating any condition coming under the provisions of this article, including the administrative and penalty charges,

shall remain unpaid for a period of ninety (90) days after the date of the mailing of the bill, the City shall file a statement of each bill and the reasons therefore with the County Clerk of the county in which the property is located. From the date of filing, the City shall have a lien on the parcel upon which the expenses are incurred, second only to tax liens and liens for street improvement. The amount of debt shall accumulate interest at a rate of ten percent (10%) per annum from the date on which payment was due. Suit may be instituted and recovered by foreclosure and such lien may be had in the name of the City, and statement of expenses so made as aforesaid, or a certified copy thereof, shall be prima facie evidence of the amount expended for such work or improvements.


SECTION 10. Upon conviction for violation of any of the provisions of this Ordinance, any person, firm or corporation, shall be fined in any sum not less than Two Hundred Dollars (\$200.00) and not to exceed Two Thousand Dollars (\$ 2,000.00), for each offense and each day such violation continues shall constitute a separate offense.

SECTION 11. That if any section, subsection, sentence, clause or phrase of the Ordinance, or the application of the same to particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall in no way affect the remaining portions of this Ordinance and to such end the various portions and provisions of this Ordinance are declared to be severable.

PASSED AND APPROVED this 9th day of February 2009


Rebecca M. Ford, Mayor
City of Bevil Oaks, Texas

Attest:


Michelle Nelson, Secretary
City of Bevil Oaks, Texas